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S. HRG. 101-788

MISCELLANEOUS BUREAU OF LAND MANAGEMENT BILLS AND ENROLLING INDIVIDUALS UNDER ANCSA

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

S. 666 **S. 1738**
S. 1128 **S. 1837**
S. 1719

MARCH 6, 1990

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

33-138 WASHINGTON : 1990

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S311-48

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MISCELLANEOUS BUREAU OF LAND MANAGEMENT BILLS AND ENROLLING INDIVIDUALS UNDER ANSCA

TUESDAY, MARCH 6, 1990

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:36 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Dale Bumpers presiding.

OPENING STATEMENT OF HON. DALE BUMPERS, U.S. SENATOR FROM ARKANSAS

Senator BUMPERS. The purpose of today's hearing is to receive testimony on five bills currently pending before the Subcommittee on Public Lands, National Parks and Forests. They are:

S. 666, to enroll 20 individuals under the Native Claims Settlement Act;

S. 1128, to convey 15.7 acres of land to Richard Saunders;

S. 1729, to designate the segment of the Colorado River within Westwater Canyon in Utah as a component of the National Wild and Scenic Rivers System;

S. 1738, to convey certain Oregon and California Grant Lands to the Rogue Community College District in Oregon; and

S. 1837, to direct the Secretary of Interior to establish a Desert Research Center in New Mexico.

I am going to ask each witness, if they will, to please summarize their testimony and to please limit oral remarks to no more than 5 minutes. Your entire written statement will be made a part of the hearing record, and at this time I will place all 5 measures in the hearing record.

[The texts of the bills and the prepared statements of Senators Cranston and Packwood follow:]

II

101ST CONGRESS
1ST SESSION

S. 666

To enroll twenty individuals under the Alaska Native Claims Settlement Act.

IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, JANUARY 3), 1989

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To enroll twenty individuals under the Alaska Native Claims Settlement Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enroll the following named individuals as natives under the Alaska Native Claims Settlement Act (Public Law 92–203): Marilyn Jean (Warren) Sanchez, Theresa A. (Warren) Forbes, Linda Graham, Carol Graham, Debra (Sellers) Page, Glen Sellers, David P. Schmalzried, Odman H. Schmalzried, Carol Guzialek, Corbin Kooly, Charmaine I. (Warren) Forbes, John A. Warren, Jr., Phillip Graham, Sharon Graham, Wanda (Sell-

ers) Clancy, Georgia A. (Schmalzried) Flood, Rhonda S. (Schmalzried) Koski, Paula Guzialek, Pamela Kooly, and Darrell Kooly. Each individual is entitled to receive one hundred shares of stock in the Kenai Natives Association and Cook Inlet Region, Inc., and such other benefits as the boards of directors of those corporations may approve.

101ST CONGRESS
1ST SESSION

S. 1128

For the relief of Richard Saunders.

IN THE SENATE OF THE UNITED STATES

JUNE 6 (legislative day, JANUARY 3), 1989

Mr. CRANSTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

For the relief of Richard Saunders.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of law or any order or land classification based thereon, the Secretary of the Interior is authorized to convey to Richard Saunders, subject to valid existing rights, approximately 15.69 acres of public lands described in a map entitled and dated .

SEC. 2. Conveyance of the lands pursuant to this Act shall be made upon payment of fair market value as determined by the Secretary of the Interior. The beneficiary of this Act shall reimburse the Secretary of the Interior for all

administrative costs associated with the implementation of this Act, including but not limited to the costs of survey if required.

SEC. 3. Any document of conveyance issued pursuant to this Act shall contain a reservation of all minerals to the United States.

II

101ST CONGRESS
1ST SESSION

S. 1719

To designate a segment of the Colorado River in the Westwater Canyon, Utah, as a component of the National Wild and Scenic Rivers System.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3 (legislative day, SEPTEMBER 18), 1989

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To designate a segment of the Colorado River in the Westwater Canyon, Utah, as a component of the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado River Westwater Canyon Wild and Scenic River Addition Act of 1989".

SEC. 2. WILD AND SCENIC RIVER DESIGNATION.

Section 3(a) of the Wild and Scenic River Act (16 U.S.C. 1274 (a)) is amended by adding the following new paragraph:

"( ) COLORADO RIVER, UTAH.—(A) The segment within Westwater Canyon from the point where the river crosses the northern boundaries of sections 22 and 23 of the township 20 south, range 25 east, to the point where the river crosses the western boundary of section 24 of township 21 south, range 24 east, to be administered by the Secretary of the Interior as a scenic river.

"(B) A map entitled 'Colorado River, Westwater Canyon Segment' generally depicting the foregoing segment of the Colorado River shall be kept on file and available for public inspection in the Moab District Office of the Bureau of Land Management.

"(C) The Congress does not intend that the designation of this component of the Wild and Scenic Rivers System require or otherwise imply the creation of a buffer zone or zones outside of the authorized boundaries of this component solely by reason of its designation. Furthermore, nothing in this Act or any other Act shall be construed to impair valid existing rights which may exist within the Wild and Scenic River corridor designated by this Act.".

II

101ST CONGRESS
1ST SESSION

S. 1738

To convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 6 (legislative day, SEPTEMBER 18), 1989

Mr. HATFIELD (for himself and Mr. PACKWOOD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND.

(a) CONVEYANCE.—Subject to section 2, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to land described in subsection (b) to the Rogue Community College District in Josephine County, Oregon (hereafter in this Act referred to as the "District").

(b) LAND DESCRIPTION.—The land referred to in subsection (a) is land in Josephine County, Oregon, described as Township 36 South, Range 6 West, W.M., Section 27.

SEC. 2. LIMITATIONS ON CONVEYANCE.

The conveyance authorized by section 1(a) is subject to the following limitations:

(1) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(2) MINERAL RIGHTS.—Such conveyance shall reserve to the United States all minerals in the land, including geothermal rights, together with the right to prospect for, mine, and remove the minerals and geothermal resources.

(3) RIGHT OF WAY FOR DITCHES AND CANALS.—Such conveyance shall be subject to the proviso in the fourth undesignated paragraph under the caption entitled "United States Geological Survey" in the first section of the Act of August 30, 1890 (26 Stat. 371, 391) (43 U.S.C. 945).

(4) REVERSIONARY INTEREST.—Such conveyance shall be subject to a reversionary interest in the land described in section 1(b) to be held by the United States. If such land ceases to be used for educational purposes, all right, title, and interest in and to such

land shall revert to the United States and shall be identified, classified, and managed as Oregon and California Railroad Grant Lands.

SEC. 3. PURCHASE OF LAND AFTER REVERSION.

If the land described in section 1(b) should revert to the United States by operation of paragraph (4) of section 2, the District may acquire such land from the United States, during the two year period ending after the date the land has reverted to the United States, by quitclaim deed, upon application to the Secretary of the Interior and the payment of the fair market value of such land and any improvements thereon.

II

101ST CONGRESS
1ST SESSION

S. 1837

To direct the Secretary of the Interior to establish a Desert Research Center.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 3 (legislative day, SEPTEMBER 18), 1989

Mr. BINGAMAN (for himself and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To direct the Secretary of the Interior to establish a Desert Research Center.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Desert Research Center Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) deserts comprise about one-third of the earth's land area and 10 percent of the land area of the continental United States;

(2) desert lands contribute significantly to the biological diversity of the world;

(3) desert lands are important for their unique and diverse flora and fauna, beautiful landscapes, recreation opportunities, natural resources and agricultural uses;

(4) desert lands must be studied, monitored, and protected because once they are damaged, the impact of human activities is often irreparable for many generations;

(5) it is necessary to understand the complex interrelationships of desert resources to ensure appropriate conservation and management of desert lands for present and future generations;

(6) the federally managed desert lands of New Mexico constitute an ideal setting in which to conduct studies of the ecology, environment, natural history, and management of desert resources because—

(A) 3 of the major deserts of the western United States are situated in New Mexico; and

(B) there would be wide applicability of such studies to other states and nations;

(7) desert researchers could use a research center as an operational base for the study of deserts in other regions and a repository for storage of data on desert ecology and management;

(8) New Mexico and Mexico share the unique Chihuahua Desert; and

(9) the understanding of natural processes, such as desertification, that would be gained from research efforts in the deserts of New Mexico could be applied to problems that other areas of the world are currently experiencing and that may become serious problems if they are not handled appropriately, especially in the southwestern United States and in Mexico.

SEC. 3. DESERT RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary of the Interior, acting through the State Director of New Mexico of the Bureau of Land Management, shall establish and administer a Desert Research Center (referred to as the "Center") in New Mexico for research on desert lands and their management.

(b) FUNCTIONS.—(1) The Center shall—

(A) serve as a clearinghouse for the collection, analysis, and dissemination of research material related to desert lands managed by the Bureau of Land Management;

(B) produce educational and interpretive materials necessary to public understanding of desert ecology, desert management, and local, national and global environmental issues;

(C) assist students and researchers as an educational laboratory; and

(D) provide for a comprehensive evaluation of desert resources, protection needs, and efficient and environmentally sound long-term management strategies for desert resources.

(2) Research at the Center shall be directed primarily toward desert lands managed by the Bureau of Land Management, but the Secretary of the Interior may enter into cooperative agreements with other agencies or entities as appropriate to carry out the purposes of this Act.

SEC. 4. OPERATIONAL PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall transmit to Congress an operational plan for the Center.

(b) PLAN CONTENTS.—The plan described in subsection (a) shall include—

(1) a research plan;

(2) an assessment of staffing needs for the first 5 years of operation of the Center;

(3) proposed cooperative agreements with other agencies and institutions pursuant to existing authorities;

(4) an assessment of facility needs for the Center; and

(5) an analysis of operational costs, including cost of staffing for 5 years, cost of facilities, and other items.

SEC. 5. ADVISORY COMMITTEE.

(a) IN GENERAL.—The Secretary of the Interior shall form a Desert Research Center Advisory Committee (hereafter referred to as the "Advisory Committee") to advise the Desert Research Center and the Bureau of Land Management on desert land research and management.

(b) MEMBERSHIP.—(1) The Secretary of the Interior shall appoint members of the Advisory Committee whom the Secretary believes will be able to contribute to the work of the Advisory Committee by virtue of training or experience in disciplines relating to the management of desert resources.

(2) The Secretary of the Interior shall ensure that a majority of the Advisory Committee members are from the United States.

(3) The Secretary of the Interior shall invite the government of Mexico to appoint members of the Advisory Committee.

(c) FUNCTIONS.—The Advisory Committee shall advise the Desert Research Center with respect to such matters as—

(1) the setting of priorities for desert research;

(2) the coordination of desert research efforts in the United States, Mexico, and other countries by government agencies, universities, and private organizations; and

(3) the practical application of knowledge gained in desert research.

(d) COMPENSATION.—Members shall serve on the Advisory Committee without compensation.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

STATEMENT BY SENATOR ALAN CRANSTON

Mr. Chairman, I appreciate your scheduling this hearing on S. 1128, a bill for the relief of Richard Saunders.

Last year, I introduced this legislation to resolve Mr. Saunders' occupancy trespass problem on public land in Inyo County, California. After reviewing the case, I concluded that Mr. Saunders' occupancy of 15.69 acres of federal land was accidental and that there was no compelling reason for the federal government to retain this particular property.

Mr. Chairman, my staff has made available to the Committee staff supporting documents provided by Mr. Saunders. However, I'd briefly like to summarize the situation for the Committee.

In 1970 Richard Saunders purchased 40 acres of land in Inyo County identified as the southeast quarter of the southeast quarter of section 16 in township 6 south, range 32 east. The following year he had the property surveyed by a private surveyor. Based on this 1971 survey, Mr. Saunders constructed a house, garage and well and fenced the property.

It was not until 1985 that the Bureau of Land Management conducted its own survey for the section line between sections 16 and 21 in township 6 south, range 32 east. This survey found that 15.69 acres, the lands on which Mr. Saunders' improvements are located, are actually federal lands. However, Mr. Saunders advises me that he was not notified of this occupancy trespass situation by the BLM. Rather he learned of the problem from the Inyo County Tax Assessor in 1987.

Mr. Saunders then attempted to have his problem resolved administratively. He inquired about the possibility of a land exchange. He offered to purchase the 15.69 acres at fair market value. However, because the land in question was withdrawn for watershed purposes by an Act of Congress in 1931 which specifically prohibited its disposal, disposal by sale or exchange is not possible in the absence of new legislation.

S. 1128 provides the necessary authority for the Secretary of Interior to sell the 15.69 acres of public land to Mr. Saunders at fair market value. The bill requires the beneficiary to pay all administrative expenses, including a new survey if necessary. Finally, it retains for the federal government all mineral rights in the property.

Mr. Chairman, I believe passage of S. 1128 is an appropriate solution to this problem and hope the Committee will approve the bill in the near future. Thank you.

SENATOR PACKWOOD'S STATEMENT ON S. 1738

Mr. Chairman, I appreciate the opportunity to submit testimony on S. 1738, a bill which would convey certain BLM lands to Rogue Community College in Oregon.

Senator Hatfield and I introduced this bill on October 6, 1989 to correct a long-standing problem involving the land on which the college is situated. Our colleague Bob Smith has introduced companion legislation in the House. The bill would convey to the Rogue Community College those lands presently owned by the BLM.

Since 1970, when the college was established, a variety of the college facilities have been situated on the BLM land. Currently, the college is leasing this land from the BLM. Conveyance of the BLM lands to the Rogue Community College will enable this facility to grow to accommodate the educational needs of Southern Oregon. Later this morning, my friend Dr. Bennett, President of the Rogue Community College, will elaborate on the College's future plans and needs.

Mr. Chairman, it is time for us to convey these BLM lands to the Rogue Community College. This action is broadly supported by Oregonians, the college, and the BLM. The college has been operating on these BLM lands for 20 years and it is time the college owned these lands. I urge the Committee to move expeditiously to report out S. 1738. I look forward to working with the committee on this important land conveyance issue.

Senator BUMPERS. The record will remain open for 2 weeks to receive additional comments and testimony.

Senator Murkowski, did you have an opening statement?

Senator MURKOWSKI. I would defer to Senator Garn, who was here first.

Senator BUMPERS. Senator Garn, I am sorry.

STATEMENT OF HON. JAKE GARN, U.S. SENATOR FROM UTAH

Senator GARN. Thank you, Mr. Chairman. I just have a brief statement on S. 1719.

I certainly am pleased to have the opportunity to voice my support for a bill that Senator Hatch and I introduced last well to designate the Westwater Canyon segment of the Colorado River as part of the National Wild and Scenic River System.

The 12-mile stretch which we are advocating is located on a remote, beautiful part of the Colorado. The river has much to offer, including caves which once served as an outlaw hideout and many other intriguing secrets. Westwater Canyon has some exciting rapids for intrepid river runners but also offers the solitude vast stretches of the Colorado are famous for.

Originally I introduced this bill with the recommendation that it be designated scenic. Since that time, however, proponents of the wild designation met with me and convinced me on the merits of that designation.

Mr. Chairman, in an effort to be responsive to my constituents, I will ask the Members of the subcommittee at the proper time to amend my original Westwater Canyon bill to wild under the Wild and Scenic River Act. I look forward to having this measure enacted into law and am confident that all valid existing rights, including the preeminence of Utah State water law will govern the new wild and scenic river corridor.

Many local residents in Grand County are counting on this assurance as well.

I do think that after several months of looking at this, being down in that area myself, that wild is a more appropriate designation than the original bill that required a scenic designation.

Thank you, Mr. Chairman.

[Subsequent to the hearing Senator Garn submitted the following statement:]

STATEMENT BY SENATOR JAKE GARN TO ACCOMPANY S. 1719, APRIL 25, 1990

Mr. Chairman, in modifying my Westwater Canyon legislation to reflect the findings of our committee's deliberations, I want to take one further step in recognition of the magnificent rivers of southeastern Utah. I am proposing this morning that we also designate a companion of Westwater as a wild river: Cataract Canyon, downstream and fully within the boundaries of Canyonlands National Park.

The Cataract segment of the upper Colorado is not threatened in any sense of the word. Congress acted in 1964 to establish Canyonlands as a unit of the National Park System. In doing so, it provided an orderly means of phasing out uses inconsistent with Park purposes.

The acquisition of non-federal property within the Canyonlands was completed in 1976 and included, through utilization of exchange provisions, the acquisition of all riverbed lands. The enabling legislation also freed those riverbeds lands from any Bureau of Reclamation or Federal Power Commission withdrawals. Today, all 337,570 acres within the Park are owned by the United States and administered by the National Park Service.

Additionally, no valid mining claims exist within the park and all Park lands are withdrawn from mining activities. Mining claims recorded prior to late 1977 have been invalidated by court action.

Grazing privileges within the Park were allowed by Congress to continue for the term of the permit plus one renewal period. The final grazing permit terminated January 1, 1985. No higher degree of protection for this stretch of the Colorado River could be needed, nor in fact is available from this Congress. The action of Congress in 1964 and subsequent expansion of the Park in 1971 provided extraordinary

protection to one of the most breathtaking geologic areas on the North American continent.

What I am seeking today is simply further recognition of the outstandingly remarkable values of the river which flows through this unit of the National Park System.

In its inventory of the nation's outstanding free-flowing rivers, the National Park Service awarded Cataract Canyon of the Colorado one of the highest resource profiles in the nation. It is described in the Nationwide Rivers Inventory issued in January 1982 as having outstandingly remarkable values in scenic, recreation, geologic, fisheries and wildlife categories.

The dramatic red sandstone cliffs in Cataract afford high visibility to the geologic processes of the Colorado Plateau.

The sculpture of the land provides a contemporary backdrop for one of the most exciting and dramatic whitewater boating experiences in North America. Hikers and boaters share this wild setting with four federally-listed endangered species, the Colorado River squawfish and humpback chub, peregrine falcons and bald eagles. Historically, the shelves and niches of these cliffs were the setting for linear "communities" of the ancient Anasazi and Freemont Indian cultures—prehistoric people who introduced the notion of domesticated plants and who slowly developed from hunters and gatherers into Utah's first farmers. The dwellings and artifacts of the Freemonts of the Pacific Northwest are uniquely mingled in the Cataract with similar evidence of the Anasazi. It is one of the few places known to us today where the Freemont culture existed further south than the known range of the Anasazi.

The early written history of the Cataract begins with John Wesley Powell in his exploration of the Colorado River and its canyons. In a reading of his diaries, it is in his narrative through the Cataract that one begins to suspect this man and his company will not live to see the Grand Canyon of the Colorado.

Today's river runners have the skills, equipment, and safety training to make the Cataract accessible to us all, but the environment of the area has not changed in a century. The thrill of following Powell's course down a turbulent and treacherous river is renewed in each adventure through Cataract. The addition of the Cataract Canyon segment of the Colorado River to the nation's Wild and Scenic River System is simply the final acknowledgement of the beauty and the unique features of Canyonlands National Park.

When Congress acted to protect this area in 1964 about 19,000 people a year were visiting southern Utah for the purpose of exploring these canyons. Today, the recreation draw of Canyonlands attracts over a quarter million people annually. This is a substantial part of our economy in Utah, and I want to attach to it every superlative label that keeps those people coming.

STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Senator BUMPERS. Thank you, Senator Garn.

Senator Bingaman.

Senator BINGAMAN. Thank you, Mr. Chairman. I am pleased that we are taking testimony today on the Desert Research Center bill, S. 1837, which I have introduced with Senator Domenici as a cosponsor. It directs the Secretary of the Interior through the BLM to establish a Desert Research Center in our State.

As you know, deserts comprise about a third of the earth's land area and about 10 percent of the continental United States. Demands on these lands are increasing both for the production of energy, food, fiber, water, living space, recreational opportunities and many other uses. A further understanding of the interrelationships of land, water, climate, vegetation, wildlife and people is critical to the long-term conservation and management needs of our Nation's arid lands.

The Desert Research Center that is proposed here is not intended to duplicate research efforts being carried out by other organizations. The idea is that the Center would serve as a focal point for

the assimilation and translation of research on desert ecosystems into actual practice for the management of our public lands.

In addition, S. 1837 provides an international linkage with Mexico since, of course, we are proposing that it would be located somewhere in the Chihuahuan Desert, and much of that desert—the majority of that desert, in fact—does exist within the borders of Mexico.

S. 1837 was introduced in November. Several questions have been raised about the bill during the time it has been pending. My staff and other interested parties have been working to revise the bill, and when the full committee does get to a markup of this legislation I intend to submit an amendment in the nature of a substitute that will strengthen the ties between the center and existing research entities by establishing a linkage with a host university, by implementing a competitive grant program, and by developing training and developmental programs.

In addition, this new substitute would increase the collaborative relationships between the Federal agencies and laboratories, academic institutions and others involved in this type of research.

I believe this is an important measure, Mr. Chairman. I very much appreciate your willingness to hold a hearing on it, and I look forward to the testimony.

[The prepared statement of Senator Bingaman follows:]

STATEMENT OF SENATOR JEFF BINGAMAN

Mr. Chairman, I am pleased that we are receiving testimony today on my Desert Research Center bill. S. 1837 directs the Secretary of the Interior, through the Bureau of Land Management, to establish a Desert Research Center in New Mexico.

Deserts comprise one-third of the earth's land area and ten percent of the continental United States. Demands on these lands are ever increasing for the production of energy, food, fiber, water, living space, recreation opportunities and a variety of other uses. A further understanding of the interrelationships of land, water, climate, vegetation, wildlife and people is critical to the long term conservation and management of our Nation's arid lands.

Universities, particularly land grant institutions, and other entities have long played an important role in desert and arid land research. The Desert Research Center proposed in S. 1837 is not intended to duplicate research efforts being carried out by other organizations; rather it will have a unique part to play. Under the auspices of the Bureau of Land Management, who manages the preponderance of desert lands in the United States, the Desert Research Center will serve as a focal point for the assimilation and translation of research on desert ecosystems and their management. The Desert Research Center can serve as a major clearinghouse for the identification of arid land research needs and for the dissemination of information. In addition, S. 1837 provides for an international linkage with Mexico since there are similar desert environments and resource management issues in both nations.

After S. 1837 was introduced in November, Senator Domenici and others raised some questions concerning specific aspects of the bill. Since then, my staff and other interested parties have been working together to revise the bill. When the full Committee considers the legislation, I intend to submit an amendment in the nature of substitute that will strengthen the ties between the Center and existing research entities by establishing a linkage with a host university, implementing a competitive grant program, and developing training and development programs. In addition it will increase the collaborative relationships between federal agencies and laboratories, academic institutions, and other research bodies.

The creation of the Desert Research Center will help our Nation devise management solutions to resource problems in arid desert lands that are based on the ecological capabilities of those systems.

Senator BUMPERS. Thank you, Senator Bingaman.

Senator Murkowski.

STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman.

Mr. Chairman, a year ago I introduced S. 666 to resolve a long-standing dispute over the enrollment of just 20 Alaska Natives under the Alaska Native Claims Settlement Act. My bill will allow them to finally participate in the claims settlement.

Even though these people have been found eligible for enrollment by the Department of the Interior, they have been continually denied enrollment by the Bureau of Indian Affairs and thereby denied the benefits granted to them by the Congress under ANCSA.

Originally these 20 individuals were denied eligibility because the BIA could not find proof that they were one-quarter Native blood. Under the regulations promulgated by the Secretary of the Interior, the Alaska Regional Solicitor was delegated the final authority for determining eligibility for ANCSA enrollment. In 1984, Mr. Chairman, the Regional Solicitor reconsidered the previous denial of eligibility for these 20 Alaska Natives and found them eligible on the basis of absence of proof that they were not of one-quarter Native blood and cited confusion in the records used by the BIA in making its original enrollment denial.

The Regional Solicitor required that the 20 individuals obtain an affidavit from the Kenai Native Association stating that they were regarded as Native by their community. This would also satisfy their eligibility requirements under ANCSA. The 20 supplied the affidavit almost immediately.

The BIA, however, refused to abide by the regulations giving the regional solicitor the authority to make enrollment determinations and would not enroll these people. As a result, 13 of these individuals brought suit against the BIA to try to enforce the decision of the Regional Solicitor.

Mr. Chairman, I introduced the legislation to correct this inequity. In enacting ANCSA, Congress intended that the settlement be accomplished, as ANCSA stated, "in conformity with real economic and social needs of the Natives without litigation."

The regulations under which the regional solicitor acted have now been withdrawn, and the enrollment period has closed. These 20 Alaska Natives are the only people who have been determined eligible for enrollment by the Interior Department and not subsequently enrolled.

Enrollment of these 20 Natives affects only one group, the Native corporations, and that corporation is CIRI. The regional corporation is willing to accept them as shareholders in their corporation. Enrollment will cost the government absolutely nothing. I see no reason why this legislation cannot pass, Mr. Chairman.

In response to the introduction of my bill, S. 666, the Kenai Native Association has voted, however, not to support enrollment of these people in their corporation. I have assured the Kenai Native Association that I will amend my bill to limit enrollment to the regional corporation CIRI only. I will leave enrollment in KNA up to the corporation itself.

I am also aware the administration does oppose this legislation. I understand the Department is concerned that the enrollment of these individuals may affect the United States or the Native corporations' past distribution of Native fund moneys and corporate dividends.

I plan to address this concern by amending S. 666 to limit the benefits of enrollment to 100 shares of corporate stock only. No retroactive payments or land conveyances will be made.

Mr. Chairman, we have representing those 20 five: Marilyn Sanchez; Theresa Forbes; Joann Warren; David Case; and Patti Marks, who are with us in the audience today.

I would like to thank you, Mr. Chairman, for allowing us to address this important legislation. That is all I have.

Senator BUMPERS. Thank you, Senator Murkowski.

Senator Domenici.

STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

Senator DOMENICI. Mr. Chairman, I have a statement that I would like to make part of the record on S. 1837, the National Center for Desert Studies Act of 1989. I thank you for conducting the hearings. I am pleased to be a cosponsor of this with my colleague, Senator Bingaman.

Senator Bingaman, I am pleased that some of the suggestions that we have worked up are incorporated in your redraft of the bill. I think it does accommodate some of the confusion maybe that was there between New Mexico State University and the program. I think we have a good bill, and I hope we can get it passed quickly.

Some might ask why do you need to do desert research, and I think we all have learned now that it is very significant that we learn about it and that we have the expertise to preserve it and capitalize on what it means to us, not just us in New Mexico but us as people. I have stated that in a little more detail in my statement.

I thank you for the bill and for my opportunity to cosponsor it.

[The prepared statement of Senator Domenici follows:]

STATEMENT OF SENATOR PETE V. DOMENICI ON THE "NATIONAL CENTER FOR DESERT STUDIES ACT OF 1989"

Mr. Chairman, thank you for holding this hearing today. I have a particular interest in S. 1837, the "National Center for Desert Studies Act of 1990" introduced by my colleague from New Mexico, Senator Jeff Bingaman. I am pleased to be a cosponsor of this bill.

The National Center for Desert Studies Act has the potential to improve the management and protection of desert lands, particularly in New Mexico, Arizona, Nevada, and California. No doubt there are other states and even other countries, such as Mexico, that would benefit from this legislation.

The bill directs the Secretary of the Interior, through the Bureau of Land Management, to establish a National Center for Desert Studies in New Mexico. The Center is intended to serve as a focal point for desert research and to produce educational and interpretive materials among other things.

Mr. Chairman, the question must be asked, why should the government create a desert research center in New Mexico? New Mexico has a wide variety of climate zones, including deserts. Two of the major deserts of the western United States, the Sonoran and Chihuahan, are found in New Mexico. Much of the desert in New Mexico is federally managed, by the Bureau of Land Management. While deserts

seem devoid of life to many people, we need to remind ourselves that they are important components of our ecosystem. They contain diverse and unique plant and animal communities found nowhere else in the world.

Our deserts are worthy of study, protection, and wise use.

When I cosponsored this bill, I suggested to Senator Bingaman that we make five substantive and two technical changes to the bill to address the concerns of New Mexico State University. I am pleased that Senator Bingaman has agreed to incorporate may of these changes into the bill.

Mr. Chairman, in conclusion let me say that I look forward to the establishment of a National Center for Desert Research in New Mexico. I congratulate Senator Bingaman for his efforts on this bill. To study, protect, and make wise use of our deserts is a worthy goal.

Senator BUMPERS. Thank you, Senator Domenici.

Senator Bingaman, have you shared your substitute with the staff?

Senator BINGAMAN. I believe we have. I think the staff has that, and we have it ready for introduction whenever the committee considers it appropriate.

Senator BUMPERS. Our first witness this morning is Mr. Walter Mills, Deputy Assistant to the Secretary for Indian Affairs.

Mr. Mills.

STATEMENT OF WALTER R. MILLS, DEPUTY TO THE ASSISTANT SECRETARY, INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY KATHY SLOVER

Mr. MILLS. Good morning, Mr. Chairman and members of the committee. It is a pleasure to be here this morning to discuss S. 666, a bill to propose an enrollment of 20 individuals under the Alaska Native Claims Settlement Act.

We oppose enactment of S. 666, a bill to enroll 20 named individuals in the bill as Natives under the Alaska Native Claims Settlement Act. Enrollment would make these individual members of the Kenai Native Association and Cook Inlet Region, Inc. This issue was thoroughly researched previously by the Department, and the final determination found that the subject individuals did not meet the eligibility requirements for enrollment under ANCSA.

While we understand there may have been support for this legislation by the concerned Alaskan corporations, Kenai has made it clear at this time that they do not support the bill.

ANCSA directed the Secretary of the Interior to prepare a roll of all Alaska Natives who were born on or before and who were living on the date of enactment of ANCSA, which was December 18, 1971. The Department set its deadline for all applications to be submitted on March 30, 1973.

In 1976, an additional year in which to apply was provided for those who had missed the earlier deadline. Enrollment applications were accepted until July 2, 1977. Those who were denied eligibility under the first application process were encouraged to reapply.

An appeal process for applicants who had been denied enrollment was set up, allowing the appellant to submit further evidence to support the appeal. At the conclusion of the review of the additional evidence, the Solicitor would issue a final decision.

The 20 individuals named in the bill applied for enrollment on the Alaska Native roll in 1972 and 1973. These individuals were denied enrollment in 1973 and in 1974, based on a determination

that they were less than one-fourth degree Alaskan Native blood. All members of the group appealed the adverse decision, and all were denied enrollment in 1974.

Nine of the family members reapplied for enrollment under the late enrollment provisions of the act of January 2, 1976. They were again denied enrollment in 1979 for lack of Native ancestry. Seven of those nine applicants appealed to the Regional Solicitor and were denied enrollment in 1980. Subsequently, all appeals were decided, and final distribution of the Alaska Native funds was made to the regional corporations.

On February 4, 1984, the Regional Solicitor accepted a request for reconsideration of enrollment eligibility from one of the 20 individuals named in the bill. Based on limited findings, this solicitor determined that earlier determinations of blood degree were erroneous and that an affidavit could be accepted from the Kenai Native Association as a basis for enrollment.

Once again, the Department conducted an extensive review of the issue and continued to support its findings of noneligibility for enrollment. The Assistant Secretary reviewed the case another time to determine if he should utilize whatever authority he might have to grant an equitable solution for these individuals. Finally, based on oral advice from the Department's Office of the Solicitor, the Assistant Secretary vacated the decision made by the Regional Solicitor because he lacked authority to undertake reconsideration after the enrollment and appeals processes were completed.

The Assistant Secretary then in a final action for the Department declared the 20 individuals ineligible and denied their request for enrollment.

Mr. Chairman, we believe the Department has given these individuals every opportunity to prove their eligibility for enrollment and in every instance they were found lacking in Native ancestry. We remain, therefore, opposed to the enactment of this bill.

This concludes my summary. I will be happy to answer any questions.

[The prepared statement of Mr. Mills follows:]

STATEMENT OF WATER R. MILLS, DEPUTY TO THE ASSISTANT SECRETARY, INDIAN AFFAIRS (OPERATIONS), DEPARTMENT OF THE INTERIOR

Good morning Mr. Chairman and members of the committee. I am pleased to be here to discuss S. 666, a bill to enroll 20 individuals under the Alaska Native Claims Settlement Act.

We oppose enactment of S. 666, a bill that proposes to enroll the 20 named individuals in the Act as Natives under the Alaska Native Claims Settlement Act (ANCSA). (43 U.S.C. 1601 et seq.) Enrollment would make these individuals members of the Kenai Native Association (KNA) and Cook Inlet Region, Inc. (CIRI). This issue was previously researched by the Department and the final determination found that the subject individuals did not meet the eligibility requirements for enrollment under ANCSA. While we understand there originally may have been support for this legislation by the concerned corporations, KNA has made it clear at this time that they do not support the legislation.

Section 4 of the ANCSA Amendment Act of 1987 (43 U.S.C. 1606(g)) provides authorization for the Alaska corporations to amend their Articles of Incorporation to issue shares of stock to individuals eligible for enrollment under ANSCA but who were not enrolled. Therefore, we believe this issue could now be dealt with by KNA and CIRI if these 20 individuals were eligible for enrollment.

Section 5 of the Alaska Native Claims Settlement Act directed the Secretary of the Interior to establish an Alaska Native Roll of those found eligible to participate in the Act. The Act reads as follows:

"The Secretary shall prepare within two years from the date of enactment of this Act [enacted Dec. 18, 1971] a roll of all Natives who were born on or before, and who are living on, the date of enactment of this Act. Any decision of the Secretary regarding of [sic] eligibility for enrollment shall be final."

Alaska was divided into 12 geographic regions with each region made up of Natives having a common heritage and sharing common interests. A thirteenth region was established for Natives who were not living in Alaska but wished to be enrolled and subsequently establish a corporation pursuant to this Act.

These 12 Regional Corporation and the over 200 village corporations were given selection rights and eventual title to about 44 million acres of lands within their geographic region. The corporations were authorized to issue shares of common stock, divided into such classes of shares as may be specified to reflect the provisions of the Act, so that each enrollee received one hundred shares of stock.

The Act established the Alaska Native Fund to be distributed among the regional corporations based on the relative numbers of Natives enrolled in each region.

Regulation procedures for applications, eligibility, and decisions were published in the Federal Register in March of 1972 as 25 CFR Part 43h and later redesignated in 25 CFR Part 69. The Act originally required the Native roll to be completed by December of 1973, therefore, the Department set its deadline for all applications to be submitted by March 30, 1973. A number of eligible persons failed to apply within the deadline so in 1976, Congress amended ANSCA to provide an additional year in which to apply for those who had missed the earlier deadline. Additional enrollment applications were accepted until July 2, 1977. The BIA interpreted this provision as permitting those to reapply who were denied eligibility under the first application process.

The definition of "Native" as set forth in the Act was adopted nearly word for word by the Department in its regulations. The definition language of the term "Native" as found in the Department's publication is as follows:

"Native" means a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group."

The regulations provided an appeal process for applicants who had been denied enrollment by the Bureau of Indian Affairs (BIA). Applicants receiving adverse decisions could appeal to the Regional Solicitor within 30 days of receipt of the decision.

The Regional Solicitor was authorized to review appeals and set up a procedure whereby the appellant could review the final decision of the Solicitor within 30 days of the issuance. If the Solicitor's decision denied enrollment, the appellant was then allowed to submit further evidence to support the appeal. At the conclusion of the review of the additional evidence, the solicitor would issue a final decision.

The 20 individuals named in the bill applied for enrollment of the Alaska Native roll in 1972 and 1973. These individuals were denied enrollment in 1973 or 1974 based on a determination that they were less than one-fourth degree Alaska Native blood. These persons were relying on the blood quantum of their grandmother to establish their Native heritage. Unfortunately, the grandmother was found not to be a fullblood Alaska Native. All members of this group appealed the adverse decisions and all were denied enrollment in 1974. Nine of the family members reapplied for enrollment under the late enrollment provisions of the Act of January 2, 1976, (43 U.S.C. 1604 et seq.) They were again denied enrollment in 1979 for lack of Native ancestry. Seven of those nine applicants appealed to the Regional Solicitor and were denied enrollment in 1980.

Finally, in a July 29, 1981, memorandum from the Regional Solicitor, the BIA was notified that all appeals had been decided. Relying on this memorandum, the Associate Solicitor, Indian Affairs, Department of the Interior, informed the BIA that it could distribute the special escrow fund that had been set aside for enrollment appeals. On December 10, 1981, final distribution of the Alaska Native Fund was made to the ANSCA regional corporations.

On February 6, 1984, withut informing the BIA, the Alaska Regional Solicitor accepted a request for reconsideration of enrollment from one of the twenty individuals named in the bill. The complete enrollment record was not requested from the BIA by the Regional Solicitor to consider in review of the request for reconsideration. Instead, findings were based on a brief submitted by a counsel for one of the individuals, and an informal meeting with certain members of the family.

Based on these limited findings, the Regional Solicitor concluded in a decision rendered on September 7, 1984, that earlier determinations of blood degree were erroneous and that an affidavit could be accepted from the Kenai Native Association as a basis for enrollment. The affidavit which was filed on September 23, 1984, was signed by the President of the Kenai Native Association. We do not know if the affidavit was formally authorized at the time by the Board of Directors or the stockholders. However, the Board of Directors, on November 3, 1989, voted to oppose enactment of S. 666.

After reviewing the complete record, the BIA continued to support its findings of non-eligibility for enrollment. An oral response from the Office of the Solictor, Department of the Interior, declared that the Regional Solicitor lacked the authority to reconsider the eligibility of the Subject individuals. The Assistant Secretary—Indian Affairs again reviewed the case to determine if he should utilize whatever authority he might have to grant an equitable solution for these individuals. However, he concluded the facts clearly showed that these individuals were not eligible for enrollment on the Alaska Native roll. As a result, the BIA declined to enroll them. On September 4, 1985, one of the individuals wrote to the Secretary requesting that he direct the enrollment of the family.

The Department conducted an extensive review of the issue and as a result, the Assistant Secretary—Indian Affairs, on December 22, 1987, vacated the Regional Solicitor's decision because the Regional Solicitor lacked the authority to undertake reconsiderations after the enrollment and appeals processes were completed. The Assistant Secretary—Indian Affairs in a final action for the Department, declared the 20 individuals ineligible and denied their request for enrollment.

The enrollment of the 20 individuals is currently the subject of litigation in the case of *Flood* v. *Bureau of Indian Affairs,* No. A87-412, in the United States District Court for the District of Alaska.

We are also concerned that no provision in the bill protects the United States or the corporations for past distributions of funds from the Alaska Native Fund and corporation dividends. In addition, there should be a provision in the bill providing that any such enrollment would not affect land entitlements or distributions.

We believe it inappropriate to support legislation to enroll individuals whom the Department has determined are not eligible. This could set a precedent that would encourage requests by other individuals denied enrollment for special consideration of their cases.

This concludes my prepared statement. I will be happy to answer any questions you may have. Thank you, Mr. Chairman.

Senator BUMPERS. Mr. Secretary, why was the decision of the Solicitor of the BIA reversed here in Washington?

Mr. MILLS. That decision was reversed because we were notified earlier from the Solicitor's Office that all appeals were finalized, and then we were informed to release all of the funding. So the decision of the Solicitor in 1984 was made after the deadline and all the appeals were final. We feel that the Solicitor at that time had no authority to make that decision.

Senator BUMPERS. Have these 20 people ever applied for membership in the regional corporation?

Mr. MILLS. Not to my knowledge.

Senator MURKOWSKI. They have, Mr. Chairman. Could I follow up?

Senator BUMPERS. Yes, by all means.

Senator MURKOWSKI. Can the BIA prove that these 20 people are not one-quarter Native blood?

Mr. MILLS. Senator, I will have to refer that. I have an individual with me by the name of Kathy Slover, who has technical expertise on this and is very familiar with this case. I would like to bring her to the table now.

Senator BUMPERS. Take that seat beside him, Kathy.

What is your answer to Senator Murkowski's question, Kathy?

Ms. SLOVER. Our research has shown that they do not possess at least one-fourth degree Alaska Native blood. This was determined

during the initial enrollment period, the amended enrollment period and when we rereviewed after the Regional Solicitor had found an absence of a proof, but his decision was not based on the entire administrative record at the time.

Senator MURKOWSKI. If I may follow up, Mr. Chairman, I would ask the witness to provide that proof or evidence for the record. Do they have that?

Senator BUMPERS. Can you supply that for the committee?

Ms. SLOVER. Yes, sir.[1]

Senator MURKOWSKI. Secondly, in 1984 the regional Solicitor reconsidered the previous denial of eligibility for these same 20 Alaskan Natives and found them eligible on the basis of absence of proof that they were not one-quarter Native blood. Does that not in itself enter into a consideration here on the double negative?

Mr. MILLS. Sir, the only answer I can give on that is that decision by the solicitor was ruled on after all appeals were final for the Department and the funds were disbursed. So it was after all time lines.

Senator MURKOWSKI. Lastly, the fact that they are not asking for enrollment in the Kenai Native group but are asking for enrollment in the regional group and the regional corporation is willing to grant that enrollment and address the issue of stock participation, why is it of any concern as a "dangerous precedent", recognizing that the regional corporation will accept them? The regional corporation obviously is satisfied that they meet the Native requirements; otherwise, everybody that is non-Native would be standing in line trying to get into the CIRI corporation and share in the benefits. They have identified these 20 and said, yes, we are satisfied.

Mr. MILLS. The corporation has the authority to recognize individuals.

Senator BUMPERS. Is there a precedent for this, for somebody to belong to a regional corporation and not a Native association such as this?

Ms. SLOVER. There is the possibility of either being enrolled to a village and region or just to a region, at large, so this would not be unique.

Senator BUMPERS. They can belong to the region?

Ms. SLOVER. Either way.

Senator BUMPERS. They can belong to the region without belonging to the village corporation?

Ms. SLOVER. Yes, that is correct.

Senator BUMPERS. There are precedents for that?

Ms. SLOVER. Yes, sir. During the original enrollment they were permitted to do that.

Senator BUMPERS. In order to be accepted to the regional corporation, the regional corporation has to vote on them like the village corporation does? Do they have to vote to accept them?

Senator MURKOWSKI. The board of directors would have to meet, Mr. Chairman, on behalf of the enrollees.

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[1] Information received is in subcommittee files.

Senator BUMPERS. How many board members are th[illegible] this particular regional corporation? This is CIRI. How many board members do they have?

Senator MURKOWSKI. I would estimate maybe 20.

Senator BUMPERS. Have they taken any official action on this yet?

Mr. MILLS. Not to my knowledge.

Senator MURKOWSKI. Mr. Chairman, they have indicated a willingness to accept these people.

Senator BUMPERS. Let me ask you this, Senator Murkowski. We will just discuss it amongst ourselves here. If these people are accepted by the regional corporation, if there is an agreement now to accept them in the regional corporation, the effect of your legislation then is to sort of force membership in the village association; is that right?

Senator MURKOWSKI. No, Mr. Chairman. The village membership is moot. We are not addressing that. Whatever the village corporation decides to do is their own business.

Senator BUMPERS. What is the need for this legislation if they were applying to the regional corporation and the regional corporation is willing to accept them? I do not understand. There is no legal prohibition against that. What is the purpose of the legislation?

Senator MURKOWSKI. Because, Mr. Chairman, the enrollment is closed.

Senator BUMPERS. Oh, so you simply want to extend the enrollment or make an exception for the enrollment period for these people?

Senator MURKOWSKI. To allow these 20. These are the only 20. They have been living with this for the last several years, Mr. Chairman.

Senator BUMPERS. What is wrong with that, Mr. Mills?

Mr. MILLS. Of course——

Senator BUMPERS. This is not the Soviet Union. If these people want to do this, I see nothing wrong with letting them do this.

Mr. MILLS. We have criteria to follow, and it could set a precedent. We do not know if there are any others out there who could fall under the same situation.

Senator MURKOWSKI. Well, we have had the settlement. These are the only 20. They feel very strongly about it, and they waived the village participation. It is just the regional corporation participation. It would seem to me that our country has attempted to accommodate minority groups based on the humanity of the issue, and we have an issue similar to that here.

Senator BUMPERS. Senator Domenici.

Senator DOMENICI. Mr. Chairman, may I just ask Senator Murkowski. I do not want to meddle in your business, but let me just ask two questions.

How many members are there in this regional corporation? Secondly, are the benefits that are to be received in general expanded by adding 20, or is the existing pot merely split up among 20 more people?

Senator MURKOWSKI. It is split up among 20 more people, and I am guessing that the regional corporation may run into 5,000 or 6,000. It is a slight dilution.

Senator BUMPERS. Senator Domenici has raised a good point, I think. I do not think the addition of 20 people to a corporation that has 5,000 or 6,000 members really amounts to much.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Senator BUMPERS. Senator Bingaman, any questions?

Senator BINGAMAN. Not on this.

Senator BUMPERS. Mr. Mills and Kathy, thank you very much for being with us.

Our next witness this morning is Dean Stepanek, Deputy Director, Bureau of Land Management, who will testify on S. 1128, S. 1719, S. 1738 and S. 1837.

STATEMENT OF DEAN STEPANEK, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 1837

Mr. STEPANEK. My prepared statement obviously addresses an earlier version, given the discussion this morning, Mr. Chairman.

What I would say is the BLM does very much appreciate the attention being paid to the problem of desert research and to the potential for BLM's role in that research. As the bill that we looked at is constructed, we would have some substantial questions as to the approach that is being taken; that is, a Desert Research Center located in the Chihuahuan Desert, given our broad responsibilities in desert areas.

The Chihuahuan is one of four major desert areas that we are concerned with. We know there are concerns in other states with regard to how the center would operate, and we think the better approach and one that we would intend to do regardless of legislation is a broad overview of research that is ongoing, how BLM could best facilitate that research, and then a decision as to whether or not facilities and the associated infrastructures are required in order to get the job done.

My other thought would be that I wholeheartedly agree that BLM should, with its scientists, with its multiple use responsibilities, and with its rangeland and desert responsibilities, be in the business of studying these areas, researching these areas, and sharing internationally our findings in the hope that that will somehow prove a positive contribution to some of our global environmental problems.

I base that in large part on a 3-week stay in China last spring where I had a chance to look at some of the desertification problems. The exchanges we had with the Chinese people suggested that we could, just based on what we know how, contribute a great deal to that country.

As you are well aware, times have not been that good since our visit, and we have not had a chance to follow up. I really would prefer the opportunity to, as I say, study where we are now for a short period of time and report back to you with an inventory of ongoing research and how we think that could best be facilitated into the future.

[The prepared statement of Mr. Stepanek on S. 1837 follows:]

STATEMENT OF DEAN STEPANEK, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Good morning. I appreciate the opportunity to be here today to share our views on S. 1837, a bill to direct the Secretary of the Interior to establish a Desert Research Center.

The concept of S. 1837 is no doubt worthy but we must oppose S. 1837. It may compete with and impose a financial conflict with other ongoing desert research programs at other facilities including several academic institutions.

S. 1837, the "Desert Research Center Act of 1989", directs the Secretary of the Interior, acting through the Bureau of Land Management's State Director of New Mexico, to establish and administer a Desert Research Center in New Mexico for research on desert lands and their management. The bill emphasizes the importance of desert lands, their biological contributions and fragility, the need to generate and gather research on desert resources, and the availability and suitability of federally managed desert lands in New Mexico for desert resource studies. S. 1837 also states that the understanding of desertification gained from these research efforts would be applicable to other areas of the country and the world.

Subsection 3(b) of S. 1837 requires the Center to fulfill specific functions such as: serve as a clearinghouse for collection, analyses and dissemination of research material concerning Bureau of Land Management (BLM) managed desert l[illegible]; produce educational materials needed for public understanding of desert ecol[illegible] and management and local, national, and global environmental issues; assist students and researchers as an educational laboratory; and, provide for comprehensive evaluation of desert resources, protection needs and management strategies for desert resources.

Research would be directed primarily toward desert lands administered by the BLM. However, the Secretary could enter into cooperative agreements to carry out the purposes of the proposed Act.

Section 4 would require the Secretary to transmit to Congress an operational plan for the Center no later than 1 year after enactment of this legislation. The plan would have to include a research plan; assessment of staffing needs for the first 5 years of operation; proposed cooperative agreements; assessment of facility needs; and, analysis of operational costs, including staffing for the first 5 years facilities costs.

Section 5 would require the Secretary to form a Desert Research Center Advisory Committee to advise the Center and the BLM on desert land research and management. A majority of members would be from the United States, but the Secretary would be directed to invite the government of Mexico to appoint members.

The function of the Advisory Committee would be to advise the Center with regard to "such matters" as establishing priorities for research, coordination of desert research efforts by government agencies, universities, and private organizations, and practical application of knowledge gained.

A Center, such as S. 1837 would authorize, would compete and pose financial and potential conflict among the center and existing research projects and facilities already established. More specifically, establishing a national BLM research center in New Mexico raises a concern that BLM research efforts in other States would be hampered.

The BLM, as a multiple use agency, manages large portions of arid lands; research concerning the desert could and should be performed in every western State. For example, much of the BLM land in Oregon and Washington is also considered desert and they too provide settings, different from New Mexico's in which studies could be conducted. There is now ongoing BLM research activity with regard to a number of these areas, such as the Great Basin in Idaho and in the California Desert. We also note that other academic research institutions are carrying out research at this time. For example, the University of Nevada has an established Desert Research Institute with facilities in Reno and Las Vegas. We would want to be in a position to derive benefits from and to enhance these already existing and on-going desert research activities.

We further oppose the provisions in S. 1837 that would give a BLM State Director the responsibility of managing a research center. Primary planning and oversight of research should be under a research director who is a scientist and has an extensive research background. Again an existing academic research institute would be the more appropriate cost efficient method to use in establishing such a center.

These are the major issues we see inherent in the scope and approach in S. 1837.

We also have a number of technical concerns.

Clarification is needed as to which function would pertain only to the BLM lands, or only to Federal lands.

Care should be taken to delineate between research on lands and research on management strategies. For example, we believe the Advisory Committee should advise on research but not on management as seems to be envisioned in subsection 5(a).

In subsection 5(b)(1), regarding Advisory Committee appointments, it may not be appropriate to require a background in disciplines relating to management. Research, rather than a management background, would be equally if not more appropriate. Perhaps it was intended to require disciplines relating to desert resources or research thereon.

In subsection 5(b)(2) clarification of the term "from the United States" is needed.

In subsection 5(b)(3) we recommend an amendment to preserve the Secretary's appointment authority. He could invite the government of Mexico to nominate members of the Advisory Committee rather than appoint.

To summarize, we are quite supportive of the general concept of the continuing need for desert research and the need for sharing of information analysis and dissemination. The Department stands ready to work with existing institutions to reach those goals.

Thank you for the interest you have demonstrated in support of the Department's programs and for the chance to provide you our views.

Senator BUMPERS. How much time are you talking about?

Mr. STEPANEK. I think it would be a reasonable expectation, since we have already begun looking into this, to talk in terms of six months to a year.

Senator BUMPERS. Mr. Stepanek, to accommodate my colleagues, Senators Domenici and Bingaman, we will stop your testimony right now and allow them to ask you questions. Then if they choose they may wish to attend other hearings. If they are like me, I have five committees meeting right now.

Senator BINGAMAN. This is the most exciting of the five hearings?

Senator BUMPERS. I just happen to have been stuck with the chairmanship of this one. That is the only difference. [Laughter.]

Senator BINGAMAN. Thank you, Mr. Chairman. Let me just ask Mr. Stepanek a couple of questions.

I take it from your oral and written statements that you do not question the proper role of the BLM in providing leadership to accomplish this research; that that is something that you think is appropriate, and it is a question of how you get it done. Is that a correct interpretation?

Mr. STEPANEK. That is correct. In fact, we are very eager to pursue that responsibility.

Senator BINGAMAN. You also indicate, as I understand, that there is research going on in other Western States and that you are not against the idea of having a central coordination of that research but you are just not sure that it ought to be in New Mexico where we indicated or structured as we proposed in this bill. Is that right?

Mr. STEPANEK. That is true. I am not ruling out that New Mexico is the proper place. It is just that we have not taken the opportunity to study that question and make a recommendation.

Senator BINGAMAN. Am I correct that the BLM, although it does have research going on in various states, does not now have any centralized coordinated capability to oversee and direct this research? You are just not structured that way; is that correct?

Mr. STEPANEK. We do have a research scientist located in Washington, but beyond that we have no focal point for the research. That is correct.

Senator BINGAMAN. I am just wondering why it would take six months or a year to get a fix on what you are doing now and come to some conclusion as to how this thing should be structured?

Mr. STEPANEK. Part of what I would want to do is canvas particularly the Western States, Senator, the idea being that there is likely a good deal of research being conducted in the university system that we may not even be aware of. I think that would be a large part of it, and then beyond that what time it would take to prepare a position for the Department.

Senator BINGAMAN. Now one of the discussions we have had in working on the redraft of this legislation was, given the fact that there is research going on in universities on this subject as well as all others, is it appropriate for the BLM to separately try to have its own ability to coordinate and direct some research that is relevant to its own management of the public lands?

I guess what you are saying is you have gone ahead and crossed that bridge in the sense that you do believe now that it is appropriate for the BLM to have a central coordinated focus rather than just have work done in the universities that you get copies of. Is that correct?

Mr. STEPANEK. That is true. Again, we are eager to pursue that responsibility. The question becomes whether or not we should construct, if you will, the facilities, the attendant staffing, or whether we should concentrate ourselves in funding activities in a distributive manner in the university system.

Senator BINGAMAN. There were two main thrusts that we tried to pursue in this legislation. One was the idea of a clearinghouse which would have a central focus where research could be coordinated and directed so that it would not take long to figure out what anyone is doing or whether all areas are being properly looked into.

The other was to make whatever research is done actually useful in the management of all public lands. I guess there has been some concern that although there is a lot of research going on in universities, which I do not think anybody doubts, the application of that research to what is going on in the BLM is not happening at a great rate, or at least that was the sense that I had from discussions that I had with various people.

Do you have any comment on either of those items?

Mr. STEPANEK. I am sympathetic to that point of view. I think it is important that we separate the basic research from research into how we apply management on the ground, and it is a little hard to draw the line between the two.

I certainly respect the judgment of those who suggest that we are not applying, as quickly as we otherwise might, research to management of the public lands.

Senator BINGAMAN. You are well aware that our main thrust here is to work on the applied research end of things and not, once again, to set up some separate basic research entity. You are in agreement with that concept?

Mr. STEPANEK. Yes, sir.

Senator BINGAMAN. Let me ask one other question. You indicated that it was inappropriate for the state director of the BLM in New Mexico to be the director of this. What is your thought as to how the thing should be structured if we set such a Center up?

Mr. STEPANEK. If it is to include basic research independent, if you will, answering to the Director of the Bureau.

Senator BINGAMAN. So it should have a director who would answer directly to the head of the BLM in Washington?

Mr. STEPANEK. That would be my view.

Senator BINGAMAN. All right.

That is all I have, Mr. Chairman.

Senator BUMPERS. Thank you.

Senator Domenici.

Senator DOMENICI. Let me just suggest that you have an opportunity to review the modifications. Frankly, I am not sure that the draft which is before you does it totally, but I think essentially the dialog which has started since the bill was introduced discusses precisely what you have described, that there ought to be a center. Obviously we prefer that it be in New Mexico. We think there is justification and perhaps even as specific as New Mexico State University where this kind of research is going on.

We have discussed that this would be a focal point to correlate and to bring together the research that is going on, not to take it over, and then to have an advisory group that would do that and also make recommendations with reference to the utilization.

We also are talking about submitting some regular, perhaps every 4, 5 or 6 years, evaluation of this as to how it is working.

I gather you have no objection to a mission of this type for the Bureau even though there is currently no statutory language for this mission?

Mr. STEPANEK. I have no objection. There is language in FLPMA stating the Secretary has responsibilities in this area, but it has not been carried out very strongly, particularly in the appropriations process.

Senator DOMENICI. So you have a concern that we would give you a mandate here and set it up and then not fund it?

Mr. STEPANEK. I do have that concern, particularly if we are talking about the construction of facilities.

Senator DOMENICI. We may or may not be talking about construction of facilities when we are finished.

Mr. STEPANEK. That would be part of my concern, that we make a recommendation as to whether they are in fact needed or if there is some other way to do this business.

Senator DOMENICI. I think we can sooner than 6 months get together and produce some language that they can then take back and evaluate that would do the kinds of things that are being recommended here. I hope you would agree, Senator Bingaman.

Is that not your desire?

Senator BINGAMAN. I think we can have language very quickly. I do think we need to work with the Bureau to see how quickly they can inventory what they are doing and come to their own conclusion as to how this fits with what they are doing.

Senator DOMENICI. Mr. Chairman, I note that an additional witness is here from New Mexico State University. He is the overseer

of the kind of research that is going on there, and I assume he might enlighten us and the record with reference to the university position with regard to nonduplication and accumulating the information and making it so that everybody can continue doing their research while still making the center a meaningful project.

I am not going to be able to stay, and I wanted him to know that we will be looking forward to his testimony and reviewing it with Senator Bingaman.

Thank you very much.

Senator BUMPERS. Thank you very much.

Senator BINGAMAN. Could I make one more point, Mr. Chairman? Since the issue was raised, the authority that we were assuming would be carried out by this legislation is in section 307(A) of FLPMA. It says the Secretary may conduct investigations, studies and experiments on his own initiative or in cooperation with others involving the management, protection, development, acquisition and conveying of public lands.

That is the same language to which you were referring?

Mr. STEPANEK. Yes, sir.

Senator BINGAMAN. Thank you.

Senator BUMPERS. Mr. Stepanek, if you will now proceed to S. 1128.

STATEMENT OF DEAN STEPANEK, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 1128

Mr. STEPANEK. S. 1128 is in support of relief for Richard Saunders, a situation that developed in Southern California. We have no objection to this bill.

The one consideration I would offer is that there has been some discussion relative to an exchange as opposed to a sale. To the extent there is any desire to pursue exchange because it would have a positive financial effect on Mr. Saunders, we are happy to work with him.

[The prepared statement of Mr. Stepanek on S. 1128 follows:]

STATEMENT OF DEAN STEPANEK, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear here today to discuss S. 1128, a bill for the relief of Richard Saunders.

S. 1128 would authorize the Secretary of the Interior to convey approximately 15.69 acres, as described on a map, to Richard Saunders, notwithstanding any provision of law, order, or land classification. The conveyance would be authorized upon payment of fair market value determined by the Secretary. The beneficiary, Mr. Saunders, would reimburse the Secretary for all administrative and survey costs of carrying out the conveyance. All minerals would be reserved to the United States.

We have no objection to enactment of S. 1128. The lands in question are not needed for any Bureau program and we know of no compelling reason to retain them in Federal ownership. It appears that although occupancy by Mr. Saunders is a trespass, it is not a willful trespass.

These are the facts that led to the introduction of S. 1128. A cadestal survey for the section line between sections 16 and 21, T.6S., R 32E., MDM, approved in early 1987, confirmed that Mr. Saunders' house and garage were located partly on lands administered by the Bureau of Land Management (BLM). A fence line around his property enclosed the subject 15.69 acres of public land. The trespass apparently arose from a private survey done for Mr. Saunders in 1971 and appears to be unintentional. Mr. Saunders also owns an adjacent 40-acre tract, where he could easily have located his improvements, had he known of the trespass.

The 15.69 acres in question are included in a Congressional withdrawal for watershed protection under the Act of March 4, 1931, 46 Stat. 1530, for the City of Los Angeles, and in Executive Order 5843 which withdrew lands in aid of legislation for the Bishop Band of Paiute Shoshone Indians.

The Act of April 4, 1937 authorized the Secretary of the Interior to exchange public land from the base set aside by EO 5842 for lands owned by the City of Los Angeles in Inyo and Mono counties. Exchanges under the 1937 Act have been completed so that the purposes of the Executive Order have been realized. Nevertheless, the segregative effect of the Congressional withdrawal prevents an administrative resolution of the trespass under existing authorities to sell or exchange lands. Legislative action is necessary. S. 1128 would authorize the Secretary to make the conveyance.

We have been informed that there may be some interest in a land exchange rather than a sale. Our California State office reports that Mr. Saunders is in a position to offer private lands in the vicinity of the lands that are the subject of this bill. If Congress wishes to pursue that avenue, we would be happy to work with you to develop legislation to authorize an exchange that would reflect Congressional and BLM policies on land exchanges.

Thank you for the chance to give you our views on S. 1128. I will be pleased to answer questions.

Senator BUMPERS. On that point, before you proceed, I have a developing situation in my own State that I am going to have to try to resolve where all the surveys are being made by the BLM and by Forest Service and so on. People in some of these small mountain communities, particularly one in my state, when these surveys are finished find that their property line is 10 feet over what they have considered for years into the forest and under State law certainly would be theirs under the rule of adverse possession. As you know, adverse possession does not apply to the Federal Government.

I am very sympathetic to these people who have in good faith considered their property line to be where it is and then suddenly find out when BLM just unilaterally and on its own behalf does these surveys, most of these people do not have the resources to challenge those surveys.

In the case of Mr. Saunders, I will be frank with you. I will have trouble in some of these areas requiring these people to pay fair market value.

In this particular case, could you give me an estimate of the fair market value of this 15 acres?

Mr. STEPANEK. I asked the same question, sir, and I would have to provide that for the record.

Senator BUMPERS. Would you, please?

[The information referred to follows:]

We estimate the value of the land to be about $30,000. The land is in a rural, isolated area without much appraisal history. This estimate is based on the closest transaction to the area and is, at this time, conjectural.

Senator BUMPERS. Please proceed now to S. 1719 regarding the Wild and Scenic Rivers bill, which I assume the Department favors.

STATEMENT OF DEAN STEPANEK, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 1719

Mr. STEPANEK. Again in the interest of time, I would say that we not only support enactment of the bill the way it is currently structured but agree with Senator Garn with regard to the wild designa-

tion as opposed to the scenic. We see no reason why it should not be so classified.

[The prepared statement of Mr. Stepanek on S. 1719 follows:]

STATEMENT OF DEAN STEPANEK, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Good morning. I appreciate the opportunity to testify in support of S. 1719, a bill designating a segment of the Colorado River within the Westwater Canyon, Utah, as a component of the National Wild and Scenic Rivers System, and classifying it as a scenic river. This legislation would designate the first wild and scenic river segment in Utah. The 12-mile long segment is currently administered by the Secretary of the Interior through the Bureau of Land Management (BLM).

S. 1719 specifies that designation of this component would not require or imply creation of a buffer zone outside of component boundaries, solely by reason of its designation. S. 1719 would also expressly provide that nothing in "this Act or any other Act" shall be construed to impair valid existing rights which may exist within the designated "Wild and Scenic River corridor".

We enthusiastically support enactment of this legislation.

However, should Congress enact the more protective "wild" classification for Westwater Canyon, we would have no objection. In either case, we recommend one technical change that I will discuss shortly.

The Westwater Canyon is prime habitat for the endangered big-river fish of the Colorado System. Specifically, the Westwater Canyon supports populations of the endangered humpback chub and endangered Colorado squawfish. Also occurring in the Westwater Canyon is the razorback sucker, a Category 1 candidate species under the Endangered Species Act. The species is unique and irreplaceable on a national basis or in the ecoregion section. Designation of the Westwater Canyon segment of the Colorado River as a component of the Wild and Scenic Rivers Systems would benefit conservation of these fish.

The segment is also highly significant for recreational values. The BLM has been managing recreational boating within the river corridor in order to maintain the primitive character of the Canyon. About 10,000 people, including both private boaters and passengers on commercial trips, use Westwater Canyon every year. Currently almost twenty commercial outfitters use the Canyon, carrying over 4,000 passengers.

There is wide support in the State of Utah for legislation along the lines of S. 1719. In fact, both the Grand County Commissioners and local river outfitters support the more protective classification of "wild" river. A Wild and Scenic Rivers study completed by the National Park Service in 1979 recommended that this river segment be classified as a wild river. There has been no development since then which would change that potential classification.

Under either designation, wild or scenic, the BLM is prepared to manage the area in a manner that is compatible with the goals and objectives BLM recently issued in *Recreation 2000: A Strategic Plan.* The purpose of the Plan was to provide a clear statement of BLM recreation management policies and goals and assure that recreation is an equal partner within the family of multiple use management. The implementation of the policies and goals in the Plan is addressed in BLM's *Recreation 2000 Implementation Plan* approved in January 1989. Challenge 3 of the Implementation Plan includes goals, issues, management objectives and implementation actions for proper resource management and protection of wild and scenic rivers, through an on-the-ground management presence.

We recommend that the last sentence of the bill, lines 17-20 on page 2, be changed to eliminate reference to the valid existing rights within the "corridor" designated and to refer to "boundaries of the component" or "segment" in order to be consistent with other references in that subsection. The term "corridor" is not defined in the legislation or on the map and could lead to confusion.

This concludes my prepared statement. I will be pleased to answer questions.

Senator BUMPERS. All right. We will dispatch that one promptly. S. 1738.

Mr. STEPANEK. I just wanted to call your attention to the fact that we did include a technical amendment on S. 1719.

Senator BUMPERS. What was the technical amendment, Mr. Stepanek?

Mr. STEPANEK. The way the bill is currently drafted, it uses a word that is not otherwise well defined, "corridor," and that could lead to confusion. We would suggest that rather than using the term "corridor" you use the word "segment," because that relates it back to the act. That has a definition, whereas corridor does not, and it could mean different things to different people.

Senator BUMPERS. Fine.

Now let us go to S. 1738.

STATEMENT OF DEAN STEPANEK, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 1738

Mr. STEPANEK. We have no objection to S. 1738. I would suggest, however, that in terms of consistent public policy, the language that has been drafted here very closely parallels the Recreation and Public Purposes Act. It may be as an alternative desirable to simply make it possible for the Bureau to convey under the R&PP Act these lands that are O&C lands.

[The prepared statement of Mr. Stepanek on S. 1738 follows:]

STATEMENT OF DEAN STEPANEK, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Good morning. I am pleased to be here today to give you the Department's views on S. 1738.

S. 1738 directs the Secretary of the Interior to convey, without payment, all right, title, and interest of the United States in certain described lands in Josephine County, Oregon, to the Rogue Community College District (District). Section 2 requires that the conveyance be made subject to: any encumbrances on the land on the date of enactment of the legislation; the reservation of all minerals to the United States, together with the right to mine and remove the mineral and geothermal resources; the reservation of a right-of-way for ditches or canals found in the first section of the Act of August 30, 1890, found at 43 U.S.C. 945; and a reversionary interest in the lands by the United States if the land ceases to be used for recreational purposes. In that event the lands would be managed as Oregon and California Railroad grant (O&C) lands.

Under Section 3, if the land reverted to the United States, the District could acquire it, within two years of the reverter. The acquisition would be by quitclaim deed upon applications to the Secretary and payment of the fair market value of the land and improvements.

We have no objection to enactment of S. 1738 if amended as we recommend.

The lands in question, about 40 acres, are currently occupied by a number of buildings that belong to the Rogue Community College. The improvements on the lands were constructed in conjunction with the Fort Vannoy Job Corps Center. The buildings were "surplused" to the General Services Administration by the Bureau of Land Management (BLM) after the Camp closed in 1968 and were subsequently transferred to the Department of Health, Education and Welfare. They were then acquired without cost by the Rogue Community College from Health, Education and Welfare in 1971. At that time the BLM leased the land to the College under the Recreation and Public Purposes Act for a 10-year period. That Act permits lease, but not sale of O&C lands.

During the ten-year lease term various avenues were explored to achieve conveyance of the lands to the College for educational purposes. However, no suitable authority was found and the lease was renewed.

While the primary use of O&C lands is timber management, this tract has been certified by the BLM as incapable of reforestation and its transfer to the College, which already owns the improvements, would be appropriate. However, we believe the authority to convey the property should reflect the congressional and departmental policies expressed in the Recreation and Public Purposes Act, which would be applicable, but for the O&C status of the lands. Under that Act, sales can be made at "a price to be fixed by the Secretary of the Interior, through appraisal or otherwise, after taking into consideration the purpose for which the lands are to be used".

In summary, except for authority to sell O&C lands, the Recreation and Public Purposes Act has essentially the provisions that are incorporated in sections 1 and 2 of S. 1738.

Therefore, we suggest that S. 1738 be amended to allow the tract in question to be conveyed under the Recreation and Public Purposes Act. We will be happy to offer amended language.

We also point out that the land description in subsection (b) of the first section should be amended to specify the aliquot part and should read: "Township 36 South, Range 6 West, W.M., Section 27, SW¼NE¼."

This concludes my statement. I will be pleased to answer questions.

Senator BUMPERS. Why would we give land to a community college, which I favor incidentally in this case, and charge Mr. Saunders for his 15 acres?

Mr. STEPANEK. That is the basic difference between the Recreation and Public Purposes Act which this very closely parallels and an act on behalf of a private individual.

Senator BUMPERS. Any questions?

Senator BURNS. No, Mr. Chairman.

Senator BUMPERS. Thank you very much, Mr. Stepanek.

Our next witness is Mr. David Case, who will testify on S. 666, the Alaskan Native Claims problem with 20 people seeking membership in the regional corporation.

Mr. Case, does it take four women to support you?

STATEMENT OF DAVID CASE, COPELAND, LANDYE, BENNETT & WOLF, ACCOMPANIED BY THERESA FORBES; PATRICIA MARKS; MARILYN WARREN SANCHEZ; AND JOANN I. WARREN

Mr. CASE. I am happy to say so, sir, yes.

Good morning, Mr. Chairman and Members of the committee. My name is David Case, and with me to my right is co-counsel, Patty Marks, and to my far right is Mrs. Joann Warren, who is the mother of two of my clients. Next to me is Marilyn Warren Sanchez, and to my far right is Theresa Warren Forbes.

Senator BUMPERS. Mr. Case, I do not want to turn the light on on you, but if you can summarize your testimony, it would be very helpful to us.

Mr. CASE. Yes, sir. I intended to respond to some of the points made by the Interior Department rather than go through and summarize my testimony. I will try to be brief. We will be brief.

Mr. Chairman, we have come a long way both in terms of the distance to get here——

Senator BUMPERS. I think you have a lot of sympathy on this committee. Now do not muck it up.

Mr. CASE. All right, sir.

Let me just return to the Interior Department's position. We have considered the testimony presented by our friends from the Interior Department, and we do not agree with it. We believe that their testimony also has suggested a way to deal with the situation and achieve the goal that we seek here. We will discuss each of Interior's major points.

First, Interior says that these people are not eligible to be enrolled under the Claims Act. There are two criteria for being enrolled under ANCSA. One was one-quarter blood. You had to prove that you were a quarter blood Native. That was a Draconian standard. A lot of people would not be able to prove that they were one-

quarter Native because of the nature of the records that are involved and the age and confusion of those records, which is what this case is all about.

The other way a person could be enrolled was in the absence of proof of one-quarter blood, then if your mother or father was accepted as a Native in the community and the individual or individuals to be enrolled were accepted as Natives in the community, then they could be enrolled. The benefit of the doubt was given to enrollment as is consistent with the Nation's policy of liberality in dealing with Native matters.

These people were originally denied enrollment because they were less than one-quarter blood, and you heard the Department's testimony on that point. They were, however, found eligible for enrollment, as Senator Murkowski told you, because there was found to be an absence of proof on the reconsideration of the regional solicitor.

Now let me turn to the regional solicitor's reconsideration. The Department has suggested that that was somehow a quick, ill-thought decision, but it was not. That is not the case. The regional solicitor, Jack Allen, had decided literally hundreds of these appeals before. We suspect that he knew—we are sure that he knew what the absence of proof was, and he knew it when he saw it.

The regional solicitor began considering this in February of 1984. He decided it in December of 1984, and in between he met at least twice, maybe three times, extensively with my clients and other members of their family over 8 months. Mrs. Warren is enrolled. She is a member of the Cook Inlet Region, and she is a stockholder in that region. He also met with other members of the family who were the uncles of these people. He heard extensive testimony about the nature of their ancestry.

Mrs. Marilyn Sanchez had prepared an extensive genealogical chart which considered all of the BIA's determinations of their ancestry as well as their other records which are inconsistent with the BIA's determinations. On that basis, the regional solicitor concluded that there was an absence of proof. The record was simply too confused to say that it proved anything about their ancestry. On that basis he concluded that they were entitled to be enrolled if they could obtain the evidence that they were accepted as Natives, which they did.

That decision did not rely on some attorney's brief to make the decision, as the Department suggests. Jack Allen, who was the regional solicitor and is now deceased, stuck by this decision literally, Mr. Chairman, to his dying day, long after it was in court, long after it was in controversy. He wrote opinions and memoranda to the Interior Department supporting his view of the situation.

We think that it is incontrovertible that there is dissention within the Interior Department on this case, and that very dissention is evidence that there is an absence of proof of these people's ancestry.

Since the regional solicitor's reconsideration, some of these individuals have been issued one-quarter blood certificates by the Bureau of Indian Affairs stating and specifying that they are one-quarter blood.

The KNA Board has voted against their enrollment to KNA under the proposed legislation. While that vote may not reflect the view of the Kenai Native community, we feel we must respect it and delete any mention of KNA enrollment from the proposed legislation.

CIRI, the ANCSA regional corporation into which the Natives would be enrolled, has advised us that the corporation has no objection to the enactment of S. 666 and the enrollment of the 20 Natives to the region, so long as the newly enrolled shareholders will not be entitled to any retroactive benefits from CIRI of any nature whatsoever. CIRI wants the following language added to the legislation to make this clear:

> The individuals enrolled pursuant to this Act shall not be entitled to share in any distributions of dividends made by Cook Inlet Region, Inc. prior to the individuals' enrollment.

We interpret CIRI's non-objection to mean that CIRI accepts these 20 people as members of the Native community and therefore does not oppose the enactment of S. 666 as long as it has no retroactive financial effect on CIRI. We have agreed to CIRI's requested amendment as is reflected in the proposed mark-up of S. 666 attached as EXHIBIT B. The proposed mark-up also deletes any reference to KNA.

They have also been enrolled in the Kenitsi Indian tribe. The Kenitsi Indian Tribe has a quarter blood standard for enrollment. The Kenitsi Indian tribe is the tribal community, Indian Reorganization Act community for Kenai, the same place where this whole controversy began.

So we think it is clear that they are eligible for enrollment under the Claims Act.

We also appreciate what Mr. Mills had to say in response to your question as to why they are being denied, why this was reversed in Washington. I have been in Alaska 16 years and active in these affairs, and I know of no example where the regional solicitor's decision has been reversed in Washington except this one.

Mr. Mills is a friend and a candid and honorable individual, and he has confirmed what we have long suspected; that is, that had this been decided in 1981 before the enrollment was supposedly closed, they would have been enrolled. That is the reason it was reversed here in Washington, because they were not enrolled in 1981.

Mr. Chairman, there were other people who were not enrolled in 1981 and who were subsequently enrolled also, one of them in 1984. We are sure the regional solicitor was aware that that was happening, that there had been exceptions made after 1981 when this matter came before him.

Senator BUMPERS. Was that a legislative exception?

Mr. CASE. No, sir, it was not. It was not a legislative exception.

Senator BUMPERS. The cutoff period is legislative, is it not?

Mr. CASE. Yes, sir.

Senator BUMPERS. Does the Native Settlement Claims Act cut it off?

Mr. CASE. No, I am sorry, it does not. That was administrative. That was administrative. The Claims Act does not cut it off. It cuts off the period for application for enrollment, but the enrollment deadline was set by the Secretary.

Senator BUMPERS. So the application was in before 1981?

Mr. CASE. Oh, yes. These applications were all submitted in 1973 or so.

Senator BUMPERS. The original cutoff period was, what, 1976?

Mr. CASE. No. I believe 1973 was the original cutoff period, and then it was extended to 1976.

Senator BUMPERS. Okay. Anyway, these applications were in before 1976?

Mr. CASE. Oh, absolutely. Oh, yes; in fact, twice in some cases, once in 1973 and then again in 1976.

Senator BUMPERS. Has there been any other case of legislation such as Senator Murkowski's legislation here?

Mr. CASE. No, sir, there has not, nor will there be. We do not think this is precedent, as I will cover in a few moments.

The next point the administration has made is that the Kenai Natives Association now opposes the legislative enrollment of these individuals. The Kenai Natives Association does not impose the enrollment if they can prove that they are quarter blood, and have said so and that if the shareholders voted on it they would enroll them if they could demonstrate that they are quarter blood.

Of course, that is the Catch 22 here. There are two problems with that approach. One, there is an absence of proof that they are

quarter blood, so by definition they are probably not going to be able to prove that they are quarter blood.

Second and probably most important for the purposes of this legislation, the Assistant Secretary has now found them ineligible. Under the 1991 amendments to the Claims Act they can only be enrolled if they are eligible for enrollment. So the actions of the Interior Department here have foreclosed the application of that avenue of relief to them. That is why we are here, because we need legislation to get around that difficulty that has really been created by the Interior Department's overruling of the regional solicitor's decision.

Second, we do not think that it is necessarily a conclusion that the Kenai Native position represents the Kenai Native community's position. The original individual who is the first president of the Kenai Natives Association that provided this affidavit of community acceptance is still a member of the Kenai Natives Association board, and he voted in favor of the legislation at the Kenai Natives Association board meeting which represents the Kenai Natives position.

Third, these people are apparently accepted in the Kenitsi Indian Tribe, which is another expression of the Kenai Native community. They are being enrolled there. Several have already been enrolled. As I said before, the Kenitsi Indian tribe has a quarter blood requirement.

Nevertheless, we do respect the Kenai Natives Association position, and we have requested in our proposed markup that the Kenai Natives Association be deleted from this bill. We do not intend nor desire to force shareholders on any Native corporation.

We think it is clear that they are accepted as Natives, as I have said before, because of Mr. Mills' continued position, because of the Kenitsi enrollment, but finally because of the Cook Inlet Region's nonopposition to this legislation. I think that was covered in the earlier testimony as well. It is clear to us that the Cook Inlet Region does not oppose these people and has said so in writing and would accept them as shareholders if this legislation is passed.

Finally, this legislation sets no precedent because the situation is simply unprecedented. It is unique. There has not been and there can never be this situation arising again. So it cannot set a precedent for future legislation.

This whole situation arose before these 1987 amendments to the Claims Act which authorized the corporations to accept new shareholders if they are eligible and so forth. There may be other people who are eligible for enrollment, but that is their avenue to be accepted for enrollment, not other legislation. This is the only situation that has arisen like this. The regulations under which the regional solicitor acted have now been repealed in the face of our litigation, and it could never happen again. By the same token, however, these people cannot be enrolled unless this legislation is passed or if we convince the court.

Let me turn now to the Interior Department's suggestion, and then I will close. When I close, I would like to give Ms. Sanchez a few moments to say a few words.

Although the Interior Department formally opposes this legislation, they do significantly, we think, suggest improvements to it

which suggest that they are looking to the possibility that it will be enacted and if it is enacted, therefore, it should be improved in certain respects.

We agree with the Interior Department's practical suggestions to improve the legislation. In fact, we have anticipated their concern about preventing the retroactive distributions and have proposed language already to correct that situation. That is specifically at the request of CIRI, the Cook Inlet Region.

We would also agree with language that the legislation would not affect land entitlement or other distributions.

In conclusion, Mr. Chairman, whether these Native people will be enrolled or not is perhaps best described as a political question, and there are two political branches of the government. The executive branch is one of those, and Congress is the other. The executive branch opposes this enrollment, but we are hopeful that Congress will accept it. That is why we have petitioned Congress to redress the grievances of these people and to redeem their birthright.

Now, Mr. Chairman, I would like to ask Ms. Sanchez to add a few words if we could.

[The prepared statement of Mr. Case follows:]

TESTIMONY OF DAVID S. CASE

IN SUPPORT OF S. 666

Before the Subcommittee on Public Lands

Senate Committee on Energy and Natural Resources

March 6, 1990

Washington, D.C.

TESTIMONY OF DAVID S. CASE

IN SUPPORT OF S. 666

I. INTRODUCTION

Mr. Chairman, members of the Committee, my name is David Case and with me is Theresa Forbes, one of the Natives who, upon enactment of S. 666, would be formally enrolled under the Alaska Native Claims Settlement Act ("ANCSA"). We appreciate the opportunity to appear before the committee to testify in favor of S. 666. I am the attorney for Ms. Forbes and her 12 cousins in the litigation known as Georgia Flood, et al. v. BIA, et al., A87-412 Civil, U.S.D.C. Alaska. That litigation was filed in the face of the government's refusal to enroll my 13 clients and 7 of their cousins after the principal officer of the Interior Department responsible for ANCSA enrollment decisions had determined them eligible for enrollment. We have turned to Congress for legislation in order to limit the cost of extended litigation and to redeem the promise of ANCSA for these 20 Natives. This testimony covers the procedural and factual background of the controversy and the need for legislation.

II. PROCEDURE AND BACKGROUND

The 20 Natives were found eligible for ANCSA enrollment by the Alaska Regional Solicitor in a decision dated September 10, 1984 and attached as EXHIBIT

A to this testimony. Each of these 20 individuals is the grandchild of Marva (sometimes Mavra) Wilson Kooly. They were initially denied enrollment under ANCSA, because the BIA determined that they had less than 1/4 degree Native blood. That was on the assumption that Mavra Kooly's grandfather was a non-Native and that she and each of her children also married non-Natives. After extensive genealogical research, the 20 individuals became convinced that the records simply did not demonstrate that Mavra Kooly's grandfather was caucasian. The 20 Kenai Natives believe he was a Native and that Mavra Kooly herself was a full blooded Native.

Beginning in about 1977, the Interior Department started to disenroll people who were determined to possess less than 1/4 degree Native blood. However, faced with substantial opposition and the magnitude of the task, the Department reversed itself in 1978 and allowed many people to remain on the rolls who did not have proof of 1/4 degree blood. Finally, in 1981, believing that all enrollment appeals had been decided, the Interior Department ordered the ANCSA rolls "closed".

The closing of the rolls, however, did not stop new enrollments. During the course of our litigation we have learned that one omitted enrollment applicant (D.C.K.) was enrolled on December 7, 1982 and more than $10,000 was disbursed to the new enrollee in 1983. It took a lawsuit, but another individual who was

originally denied enrollment was also enrolled in 1984.

In that same year, Marilyn Sanchez, acting on behalf of her 19 cousins, (the grandchildren of Mavra Kooly), asked the Alaska Regional Solicitor, the late John M. Allen, to reconsider his earlier denials of eligibility. Ms. Sanchez and several of her relatives met more than once with Mr. Allen to give him oral and documentary evidence. On September 7, 1984, Mr. Allen issued a "Reconsideration" granting enrollment on the basis of an "absence of proof" and citing to confusion in the records used by the BIA in making its original enrollment determinations. See copy attached as EXHIBIT A.

Mr. Allen's Reconsideration required Plaintiffs to obtain an affidavit from the Kenai Natives Association (the group into which they would normally be enrolled) within six months of the date of his decision. See EXHIBIT A. Mr. Allen's decision specifically stated that upon receipt of the affidavit, the BIA "will add" the 20 names to the roll. Plaintiff's supplied the affidavit almost immediately and as a result of the decision, some of the 20 were issued "quarter blood certificates" which entitled them to Native programs. In spite of that, they have yet to be placed on the ANCSA roll.

Throughout 1986, Plaintiffs corresponded through counsel with the Department, attempting to settle the issue of their placement on the roll. Mr. Allen

supported their efforts with correspondence to the Interior Solicitor recommending that the 20 individuals be enrolled, and concluding:

> If we deny enrollment to the 20, we will almost surely be taken to Court, with everyone on the other side, and nothing to win but a rather dubious principle. If we lose, we will most likely be charged attorney's fees. I think we have better things to spend our ever shrinking legal resources on than going to court to keep these 20 people off the roll.

Memorandum of November 6, 1986 from John M. Allen to Ralph Tarr.

After continued fruitless efforts, Plaintiffs filed their original complaint on August 25, 1987, requesting the court to order their placement on the roll. On December 21, 1987, Solicitor Tarr sent a memo to Ross Swimmer, then the Assistant Secretary for Indian Affairs, advising him to vacate Mr. Allen's Reconsideration. The very next day, Mr. Swimmer issued a document purporting to vacate the Reconsideration. On March 11, 1988, Plaintiffs filed a Second Amended Complaint requesting a mandatory injunction reversing Mr. Swimmer's decision.

The Plaintiffs in the lawsuit have moved for summary judgment, the United States has opposed, and the Plaintiffs have turned to Congress for legislative relief. Without opposition, the court has granted stays in the proceedings through May 14, 1990 pending Congressional action.

III. WHY CONGRESSIONAL ACTION?

A. "Dubious Principle"

Jack Allen's November 6, 1986 Memorandum to Ralph Tarr is an excellent brief on the reason for this legislation. At the time he issued his Reconsideration, the Interior Department's own enrollment policy had become more "flexible", leading to the enrollment of many individuals who did not have proof of blood quantum. The Regional Solicitor's review of the records presented by the 20 individuals convinced him that there "were discrepancies in the evidence which I felt cast substantial doubt on the decision [not to enroll them]". See also the "Reconsideration" at EXHIBIT A which succinctly summarizes the discrepancies.

The Interior Department opposes the enrollment principally on the argument that the Regional Solicitor lacked the authority to reconsider his own enrollment decision. In the government's September 30, 1988 Memorandum in Opposition to Summary Judgment, the government noted at page 27 that: "This case turns not on Plaintiffs' blood quantum, but on the legal question of whether the Regional Solicitor had the authority to entertain the reconsideration." The regulations under which the Regional Solicitor acted have (as a result of the lawsuit) now been revoked. So it is now beyond question that nobody will be affected by the

rollment of these 20 individuals. It is also certain that had the Regional Solicitor ued his Reconsideration prior to 1981, these individuals would have been enrolled der then existing Department policy. It is only because they were reconsidered ar 1981 that the Department has opposed their enrollment and there is absolutely principle (not even a "dubious" one) on which they should be denied enrollment.

"Absence of Proof"

Section 3(b) of ANCSA requires that a person must be 1/4 degree or more aska Native blood quantum in order to be enrolled under ANCSA. An exception is ade, however, "in the absence of proof of a minimum blood quantum." In that ıse, any citizen who is regarded as an Alaska Native by the Native community in ıich he claims to be a member and in which his father or mother was also garded as a Native is entitled to enrollment. The exact way in which to handle this ıxible criteria was the subject of some discussion in the early days of the ANCSA ırollment process. This resulted in an opinion in 1974 from the then Regional olicitor for Alaska. The opinion concluded that:

> [A]n appeal will not be denied unless all unknown branches of the particular tree can be credited with full Native blood and the applicant still is shown to have less than the statutory quantum. When the number or proximity of unknowns is sufficiently large to make a

determination of blood quantum impossible, a village opinion will be solicited. (Emphasis added.)

Regional Solicitor Memorandum of April 3, 1974 at pgs. 6-7.

That is exactly the situation with these 20 Natives. Although the BIA contends that they are less than 1/4 blood, the confusion over their ancestry is sufficient to warrant the inference that all of their ancestors, including their grandmother, was 100% Native. That being the case, the grandchildren of Mavra Wilson are 1/4 Native.

That was also the conclusion the Regional Solicitor reached in his reconsideration in 1984. He specifically found that: "The records are indeed confusing and could support several interpretations." He went on to note that the parentage of neither Mavra Wilson's father or mother could be confidently determined, that there was therefore an "absence of proof" of the minimum blood quantum for the 20 Natives. See EXHIBIT A.

C. Fairness

These 20 individuals have turned to Congress, because they hope that there they will find justice. They have grown up and spent all their lives believing they were Native people. Now, because someone in the Interior Department thinks their grandmother's grandfather was a white man, they will be denied their birthright. It is possible that they will win the lawsuit, but that too is contrary to the Congressional policy under the Claims Act to settle the claims "without litigation". The 20 Kenai Natives have had litigation in abundance, but they are not wealthy people. It is only by 13 of them combining together that they have been able to partially defray the cost of litigation and now turn to Congress to try to obtain their formal enrollment quickly and without further substantial cost.

D. CIRI and KNA Positions

Besides the BIA, the only interests to be affected by this enrollment, are those of the two ANCSA corporations into which the 20 people are eligible to be enrolled. As residents primarily of Kenai, they are eligible to be enrolled to the Kenai Natives Association, (KNA) the urban corporation for Kenai, and to Cook Inlet Region Inc. (CIRI). Both these corporations filed initial answers to this lawsuit which admitted

the essential allegations of the lawsuit and urged judgment in favor of the Plaintiffs as to the federal defendants.

After 5 years of what the 20 Natives thought was support for their enrollment, KNA has now turned against them. In a meeting on November 3, 1989, the KNA Board of Directors voted 7 to 1 to oppose the enactment of S. 666. We are advised that the dissenting vote was cast by the original KNA President who signed the 1985 affidavit acknowledging that the 20 people were accepted as Natives in the community of Kenai.

We are at a loss to explain KNA's change of position. The current KNA President has written KNA's attorney to say that our earlier characterization of KNA's position as an "endorsement" of S. 666 "offended" the KNA Board and also to allege that the 20 Natives are not 1/4 blood. Any offense was unintended, and whether the 20 Natives are 1/4 blood or not has never been the question. Rather the issue is whether there is an "absence of proof" of their blood quantum under Section 3(c) of ANCSA and (2) if so, whether they are accepted as Natives in the community to which they are to be enrolled.[1]

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[1] As noted above, the Interior Department has taken the position in the pending litigation that blood quantum is not an issue at all. The only question is whether the Regional Solicitor had the authority to reconsider his decision.

E. Fiscal Effect on the Government

Amending S. 666 to eliminate retroactive benefits, means that this legislation will have no fiscal effect on the government. All financial payments made to individuals under ANCSA were made from the Alaska Native Fund through the regional corporations. Since no retroactive benefits will be paid by CIRI, no funds will have to paid by the government either.

Enrollment of these 20 Natives will also not result in any increase in Federal Native services obligations. All 20 of these individuals have been considered eligible for Native services in Alaska all their lives and are still receiving those services. The 20 Natives have used a variety of these services, including notably health care at the Anchorage ANS Hospital for surgery, radiation and related cancer therapy. Their eligibility for these services predates the Regional Solicitor's decision by many years. Unjustifiably, failure to enroll them now might result in denial of benefits they have long enjoyed because of their accepted Native status.

F. This Legislation Sets No Precedent

There has been some suggestion from time to time that the enrollment of these Natives will set some sort of precedent for the enrollment of others who may

be similarly situated. Reportedly, some Natives who were eligible to be enrolled under ANCSA, were not so enrolled. In 1987, Congress enacted legislation that would permit such Natives to receive Settlement Common Stock under section 7(g)(1) of ANCSA [43 USC 1606(g)(1)] if the shareholders of the corporation vote to issue it to "eligible" Natives who were not enrolled.

However, this is not a likely option for these Natives, because the Assistant Secretary for Indian Affairs has purportedly revoked the Regional Solicitor's Reconsideration and determined these Natives are ineligible for enrollment. Thus, the provisions of section 7(g)(1), allowing issuance of Settlement Common Stock to "eligible" Natives very likely cannot be applied to them, absent a court decision or Congressional action.

Beyond that, and unlike any other "eligible" Natives, these Natives are distinct because they are the only people who have already been determined to be eligible by the Regional Solicitor who were not formally enrolled. Nobody else is in that position and nobody else ever will be because the Regional Solicitor's authority has now been revoked. Short of winning their lawsuit, the only way these Natives are likely to be able to be enrolled is by the enactment of S. 666.

IV. CONCLUSION

In 1971, Congress mandated that the settlement of the Alaska Native Claims should be:

> Accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, [and] with maximum participation by Natives in decisions affecting their rights and property
> . . . .

Section 2(b) of ANCSA. These 20 Natives have been pursuing the settlement of their birthright for nearly 16 years. As to them the settlement has been neither rapid nor certain; but it has involved plenty of litigation. They have finally turned to Congress in the hope of redeeming the promise of ANCSA.

If enacted, S. 666 will have no adverse effect on the government, KNA or CIRI. KNA will not be subject to the legislation. Neither CIRI nor the government will be adversely affected financially or otherwise and the legislation will set no precedent for others. In fact, KNA, CIRI and the government will all benefit, because the legislation will make it unnecessary to pursue the pending litigation. As for the 20 Natives, enactment of S.666 will do them the simple justice of confirming their individual birthright-- their identity-- as Native people. They have turned to Congress for what they believe is a simple measure of justice.

Attachments

U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
Regional Solicitor, Alaska
701 "C" Street
Anchorage, Alaska 99513

MARILYN JEAN (WARREN) SANCHEZ;	)
CHARMAINE I. (WARREN) FORBES;	)
THERESA A. (WARREN) FORBES;	)
JOHN A. WARREN, JR.;	)
LINDA (GRAHAM);	)
PHILLIP (GRAHAM);	)
CAROL (GRAHAM);	)
SHARON (GRAHAM);	)
DEBRA (SELLERS) PAGE;	)
WANDA (SELLERS CLANCY);	)
GLENN SELLERS;	)
GEORGIA A. (SCHMALZRIED) FLOOD;	)
DAVID P. SCHMALZRIED;	)
RHONDA S. (SCHMALZRIED) KOSKI;	)
ODMAN H. SCHMALZRIED;	)
PAULA GUZIALEK;	)
CAROL GUZIALEK;	)
PAMELA KOOLY;	)
CORBIN KOOLY; and	)
DARRELL KOOLY.	)
	)

RECONSIDERATION OF ENROLLMENT APPLICATION

Applicants have requested reconsideration of the denial of their enrollment application under the Alaska Native Claims Settlement Act, P.L. 92-203, as amended January 2, 1976, P.L. 94-204. On reconsideration I find that the denial was in error. I find the applicants eligible for enrollment provided they obtain an affidavit of Native ancestry within six months of the date of this decision.

Exhibit A
Page 1 of 3 page(s)

FACTS

Applicants filed under the provision of P.L. 94-204, the late enrollment amendment. They all claim eligibility as grandchildren of Mavra Wilson. They were denied enrollment on the basis that Mavra Wilson was not 100% Native. They filed timely appeals. The appeals were denied by decision of the Regional Solicitor. A timely request for reconsideration was received.

The denial of enrollment was based on a family tree which shows Mavra Wilson to be the daughter of Filip Wilson and Sofia Mishakov, both of whom are shown to be less than 100% Native.

Applicants question the basis for the conclusion that Mavra's parents were not 100% Native. They point to numerous discrepancies in dates and spelling to contend that the BIA conclusion as to the identity of Filip and Sofia's parents is based on assumption and speculation; specifically the assumption that Mishakov is a corruption of Mishiakov and that Filip was the son of Iakov even though he was ten years old when Iakov married Filip's mother, who is identified as Ekatrina Pamfilov. There is further doubt as to Ekatrina's parentage due to numerous variations on the spelling of Pamfilov.

I have reviewed the evidence from which the family trees were denied and find it inconclusive. There is no real proof that Filip was the son of Iakov or that Sofia's parents

were of Russian descent. The records are indeed confusing and could support several interpretations.

The records pertaining to Ekatrina's parentage are equally pervaded with doubt. Her history derives from Kodiak records, whereas the records of her supposed parents are Kenai records. Because of discrepancies in spelling and dates between the two sets of records, I conclulde that Ekatrina's true parentage is unknown.

On Mavra's mother's side (Sofia Mishakov), the BIA acknowledges one record that lists her as "Chkituksk Kenai" which "might be construed as full Native blood." BIA discounts the entry as in error "considering the entire record." I am unwilling to deny enrollment in the face of this conflict in the records.

The law provides that in the absence of proof of a minimum blood quantum a person may be enrolled as an Alaska Native if the Native Village to which he or she claims membership regards him or her as a Native and regards her father or mother as Native. ANCSA Section 3(b). This provision recognizes the difficulty of proving blood quantum and the fact that there will be cases where there is no real proof one way or the other. Congress provided that in such cases an applicant's entitlement to share in the settlement as a Native should be decided by the other Native beneficiaries of that settlement.

CONCLUSION

Based on the foregoing, I conclude that Mavra Wilson must be considered of unknown parentage. Accordingly, I will accept an affidavit from the Kenai Native Association as a basis for enrollment of any grandchildren of Mavra Wilson whose name is listed on the caption of this decision. The affidavit must state that the members of the association regard the applicant as a Native and that the applicant's mother or father is enrolled as a Native. The affidavit should be signed by the president of KNA and sent to the Area Director of BIA in Juneau together with a copy of this decision. Upon receipt of the affidavit, the BIA will add that applicant's name to the roll. In order that this decision not indefinitely prolong the administrative process of enrollment, I am limiting its effect to six months.

Dated: Sept. 7, 1984.

OFFICE OF THE REGIONAL SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR

John M. Allen

JOHN M. ALLEN
Regional Solicitor

cc: Kenai Native Association
Cook Inlet Region, Incorporated
BIA Area Director, Juneau
Associate Solicitor, Indian Affairs

Senator BUMPERS. Mr. Case, Mrs. Sanchez is not on our witness list this morning, but out of deference to probably a long trip to be here, I certainly—are you Mrs. Sanchez? You are?

We will be happy to hear from you. Mr. Case is having a hard time taking yes for an answer. I hope you will not. Go ahead.

STATEMENT OF MARILYN WARREN SANCHEZ

Ms. SANCHEZ. Thank you, Mr. Chairman. This will only take a moment.

I cannot thank you enough for taking this time on S. 666. My family, 19 cousins and myself, have been working hard for 16 years and have spent a lot of time and money on the issue of our enrollment. We have been bounced between the Bureau and the courts, and, thanks to Senator Murkowski, we are here before the Congress today.

We are not at all a wealthy family, and we cannot afford the hardships of further costs and time to be tossed around. We ask that we will not be sent away to have to fight this with litigation.

We are entitled to be enrolled, and we are determined not to be denied.

Again, thank you, sir.

Senator BUMPERS. Thank you, Ms. Sanchez.

Thank you, Mr. Case, and thank all of you for coming down to be with us this morning.

Mr. CASE. Thank you very much, Mr. Chairman.

Senator BUMPERS. Senator Hatfield is on his way over to be present for the Rogue Community College presentation with Dr. Bennett, so I will ask to reverse these and ask Tom Bahr, director of the New Mexico Water Research Institute, to come and testify now.

Dr. Bahr, welcome to the subcommittee.

STATEMENT OF DR. TOM BAHR, DIRECTOR, NEW MEXICO WATER RESOURCES RESEARCH INSTITUTE, NEW MEXICO STATE UNIVERSITY

Dr. BAHR. Good morning, Mr. Chairman. I have submitted copies of my testimony for the record, and I will be brief.

My name is Tom Bahr. I am director of the New Mexico Water Resources Research Institute at New Mexico State University, and I would like to comment on behalf of the university on the bill that was introduced last fall by Senator Bingaman and cosponsored by Senator Domenici. That legislation represents a very important focus on deserts.

In the Southwest we have a deep appreciation for deserts, and this legislation recognizes that importance as unique ecosystems and also recognizes a very real need to tie together management of these types of ecosystems with a sound scientific base.

So since the introduction of the legislation last fall, my office and others in the university have been working with Senator Bingaman and his staff along with the local BLM people in New Mexico to clarify certain parts of the bill to better identify the needs of the BLM in terms of what they need for management and the capabili-

ties of New Mexico State University and other academic institutions in meeting these needs.

What resulted from this dialog was an expanded version of the bill which has several purposes, including new sources of funding for desert-related research, a purpose for providing a mechanism for BLM to participate in the selection and prioritization of research, and also to actually participate in research with university scientists and others, to foster the development of scientific information for management purposes, to support and augment educational and training programs for land managers, and to train a new generation of scientists who will in turn provide the kind of information that future land managers are going to have to have.

These would be purposes accomplished by establishing a national center for desert studies, and it would include such things as a competitive grant program that could be administered through such a center and have the participation of a host of universities throughout the southwest that have expertise in desert-related research.

It would also include an opportunity for internship programs where the BLM could go and work hand in hand with the university faculty and vice versa, where faculty and researchers could work and see the type of management problems and issues that face the BLM.

In short, I think this kind of collaboration is good. The expanded version of this bill encompasses some of the discussion that was held earlier here between the committee and Mr. Stepanek relating to identification of research that is ongoing, working out some of the administrative details of the plan and so forth.

Mr. Chairman and Members of the committee, the background that I have is long in the area of research, water-related research, but I have also served from the management end of things. I also directed a national research program through the Department of the Interior a number of years ago and more recently served for two and a half years on the cabinet of Governor Carruthers in New Mexico as the Secretary for the Energy, Minerals and Natural Resources Department for the state. So I have a very deep appreciation for the need to tie good scientific knowledge together with management.

With that, I would be happy to respond to any questions. Thank you.

[The prepared statement of Dr. Bahr follows:]

TESTIMONY BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Good Morning. My name is Dr. Tom Bahr and I am Director of the New Mexico Water Resources Research Institute located at New Mexico State University in Las Cruces. I am here today as a representative New Mexico State University to present a statement on S. 1837, the Desert Research Center Act which was introduced last September by Senators Bingaman and Domenici.

This legislation recognizes the importance of deserts as unique and productive ecosystems. It also recognizes that proper stewardship of deserts will require a sound scientific understanding of how deserts function in order to make wise management decisions. New Mexico State University, along with other academic institutions in the region, have long been actively involved in desert-related research and we are well aware of the need for close ties between management and scientific knowledge.

Since the introduction of this bill last September we have been working closely with the New Mexico State Director of the Bureau of Land Management to further identify the information needs of the BLM and the role that New Mexico State University and other academic institutions could have in meeting these needs. This interaction has resulted in the development of an expanded rewritten version of S. 1837 to clarify certain portions of the bill. My remarks will address elements of this new version.

The modified version of the bill, which we support, represents an important vehicle to further couple and augment the scientific expertise that already exists in academic institutions and Federal laboratories with the management information needs of the BLM. Language in modified by identities for (5) purposes:

1. To provide new sources of arid lands research funding to universities and federal laboratories.
2. To provide a mechanism for the BLM to participate in the setting research priorities and to collaborate with scientific on research projects.
3. To foster the development and integration of scientific information that will be relevant and useful to land managers.
4. To provide additional financial support to universities to augment education and training programs for land managers and new arid land scientists.
5. To establish the necessary facilities to house administrative and technical staff that would be required for the research and training programs.

As was spelled out in the original version of S. 1837, there would still be an advisory committee to guide the overall direction of the Center.

The purposes of the act would be accomplished by creating a National Center for Desert Studies through the BLM whose functions would include implementing a competitive grant program, developing cooperative university/BLM research units on selected campuses, producing educational interpretive materials related to desert issues and creating internship programs between universities and the BLM and other land management agencies. The center would be housed at a host university. During the first year a detailed operational plan would be developed by the BLM in close consultation and collaboration with the host university. This plan would spell out the relative roles and responsibilities of the BLM and other participants as well as assess other operational issues for starting up the Center. Of particular importance will be careful assessment of ongoing desert-related research so as to avoid any unnecessary duplication in order to make the most efficient use of funds made available to the center

Mr. Chairman, my background has included not only conducting but administering university research. I also directed a nationwide federal program of research for the Department of the Interior and recently spent 2½ years as a New Mexico Cabinet Secretary with management responsibilities for the energy, minerals and natural resources for the state. This background has given me a deep appreciation for the vital need to base day-to-day land management decisions on solid scientific information. The bill draft I have referenced represents an excellent mechanism to accomplish this.

Senator BUMPERS. Thank you very much for your testimony, Dr. Bahr.

Let me ask you this simple question. Is there any reason why this center could not be housed in the university? I know BLM would probably be hot for it if they thought they were going to get a big new building in Albuquerque and have it manned by BLM staff.

Is there any reason why such a desert research center could not be housed on the campus of New Mexico State or the University of New Mexico?

Where is the University of New Mexico, Jeff?

Senator BINGAMAN. The university is in Albuquerque. New Mexico State is in Las Cruces.

Senator BUMPERS. Which is bigger, incidentally?

Senator BINGAMAN. The University of New Mexico is larger, but I think New Mexico State probably has a stronger program in this type of work.

Senator BUMPERS. Do you see any reason why they would not work?

Dr. BAHR. Mr. Chairman, I think it is a very real possibility that something like that could be housed within existing facilities. There would need to be some assessment of it, but I see no reason why that is not a distinct possibility.

Senator BUMPERS. Senator Domenici.

I am sorry. Senator Bingaman.

Senator BINGAMAN. Thank you, Mr. Chairman.

Let me first thank Dr. Tom Bahr for helping with this bill. He has helped us over the last couple of months in trying to refine it, working with my staff and BLM officials.

I also appreciate your testifying today.

I gathered from the testimony that the Deputy Director of BLM gave, that he did recognize some value in the BLM having a separate entity or center that would try to coordinate and prioritize research, and ensure development of applied research.

Let me once more press you, to the extent you can, as to how you see that interfacing with what universities are now doing in the way of desert research and particularly based on your experience at New Mexico State.

Dr. BAHR. Mr. Chairman, Senator Bingaman, the role of research and the role of an agency that has a need for research is something to which I have given a great deal of thought. The BLM I think could clearly use some focus and mechanism, a more formal mechanism to interface with the academic community on campus. There are several models, and one of these is basically a cooperative program where New Mexico State University or the University of Arizona or any other academic institution could set up a formal arrangement with the BLM for a cooperative research center.

I think to have a focus within a management agency like this, and to bring research, especially the relevant aspects of research into management, is very important.

Furthermore, I think it is important for a management agency to have, if funds are directed through a management agency, a role in identifying what is a relevant piece of research for the agency.

Senator BINGAMAN. So I take it that you would agree with the basic point that a lot of the research going on now is not adequately focused, and the results of the research or much of the research going on now is not adequately put into practice in the management of our public lands?

Dr. BAHR. Mr. Chairman, Senator, to say that it is inadequate may not be totally accurate. I think there is a need. The real need is to bring together a lot of the land managers I think more closely to the research process and also bring the research process a little closer to the needs of the agency. There is a lot of very good work going on. A lot of it is basic and, I would agree, does not have direct applicability.

There are other avenues of research and other types of research projects that are needed and which are not being done right now. I think that is clear. That needs supplemental support, so in that context I would agree that there is an avenue and an opportunity here to fill that gap.

Senator BINGAMAN. Again, Mr. Chairman, I thank Dr. Bahr for his help in this legislation, and I appreciate your willingness to hold the hearing.

Senator BUMPERS. Dr. Bahr, just one additional question. I am sitting here thinking that we have deserts in several western states, notably California, Arizona and New Mexico. Do you have a college of agriculture at New Mexico State University?

Dr. BAHR. Yes, sir.

Senator BUMPERS. Does the University of New Mexico also have a college of agriculture?

Dr. BAHR. The land grant university is New Mexico State University, and that is the one that has the college of agriculture.

Senator BUMPERS. I know that deserts have different characteristics. There are all kinds of deserts. I assume also that all the universities that have colleges of agriculture in states where there is certainly any significant amount of desert do quite a bit of agriculture research on uses of the desert or maybe nonuses that are preferable to agricultural use. I would assume that that kind of research, you know, would continue.

Would you envision that kind of research also coming through a clearinghouse center such as this?

Dr. BAHR. Mr. Chairman, no. There are very good examples of that on our campus alone funded by the National Science Foundation, funded by the Department of Agriculture and so forth. These different funding agencies, of course, have their own mechanism for developing research priorities and so forth.

In terms of a clearinghouse, though, I think the information that is generated from these other studies in this day and age of modern electronic information systems could very easily be aggregated within a center like Senator Bingaman is proposing.

Senator BUMPERS. Dr. Bahr, let me add my thanks to the thanks of Senator Bingaman for your coming here to be with us this morning. I was not familiar with this concept, but I found this especially interesting this morning because I think there may certainly be a place for such a center as this.

We thank you very much.

Dr. Bennett, thank you very much for coming to be with us this morning. We appreciate it. Here again, I think you already have yes for an answer, so do not belabor it.

STATEMENT OF DR. HARVEY O. BENNETT, PRESIDENT, ROGUE COMMUNITY COLLEGE

Dr. BENNETT. Let me say my name is Harvey Bennett, President of Rogue Community College, Mr. Chairman. I have submitted my testimony, and in consideration of your time I will not go through that.

Attached to the testimony there were some photographs. I do not know whether those have been passed along to you or not. The photographs show the campus before and after and also from the air.

We are a small college. This is our 20th year, and we are looking forward to the passage of this legislation. Senators Hatfield and

Packwood have introduced this bill, and Congressman Bob Smith in the House has introduced legislation.

I think the photographs will show you what the issues are and perhaps limit my time needed with you. They are before and after. Those are the same buildings, 1965 Job Corps translated into 1990's facilities. They were buildings without foundation.

Senator BUMPERS. Where was that first picture taken?

Dr. BENNETT. Which one do you have in your hand?

Senator BUMPERS. Here it is. Can you see it?

Dr. BENNETT. That photo is the same place, the same building as in the other one.

So we have moved from temporary quarters to permanent quarters. Looking at that same site from above, which is this other photo here, you see all the blue roofs. All the blue roofs were originally Job Corps buildings that we have completed.

Senator BUMPERS. Were what?

Dr. BENNETT. They were Job Corps buildings that have now been completely redone so that we have a permanent campus, the 25 buildings on the right-hand side of this photograph.

You see a line of trees between the large brown roofed building and the beginning of the blue buildings. That is the BLM land, all of the blue roofs over to the far right-hand side of the photograph.

It is important to us in this part of the 20th century to integrate how we worked with all sorts of audiences, how we erect structures, who works with us cooperatively, and how we continue our college.

One of the key issues is the land. As you are aware from the bill, it has been of interest to us for nearly the 20 years of our existence. We hope that this process will conclude that and will deliver it to us.

Let me just review quickly then, and I will close for questions. We have had 20 years of evolution and development on our campus, 20 years of investment and, finally, we hope through this legislation, permanence, permanence in what were temporary facilities, making very, very good cost efficiency of the facilities originally provided for the Job Corps at Fort Vannoy.

Your help today and finally the help of Congress will provide the permanence that this college has hoped for in its 20 years of existence and will meet the long-term goals of a local board and local citizens who fund approximately 85 percent of the total cost of the college. This seems to be an opportunity for Government to confirm without direct cost the vocational purposes established within the 1960s training center as it now continues as a locally funded quality community college.

Mr. Chairman, I thank you very much for this opportunity. I would just say that one of the first people to train at this site was George Foreman. We hope that we can have our own land, and perhaps he can be champ again and put the two together.

[The prepared statement of Dr. Bennett follows:]

Rogue Community College

Office of the President

**Testimony Before Senate Sub-Committee
for Public Lands, National Parks, and Forests**

Chairman Bumpers, members of the Senate Sub-Committee on Public Lands, National Parks, and Forests, my name is Harvey O. Bennett. I am president of Rogue Community College in Grants Pass, Oregon, Josephine County. I am here to share briefly with you comments in support of Senate Bill 2654 introduced by Senator Hatfield and Senator Packwood with a companion bill introduced in the House of Representatives by Congressman Bob Smith. The bill before you today would transfer to us title to the land the college has occupied for twenty years!

Rogue Community College twenty years ago was just an idea, an idea that rested on ground that had lots of questions about its potential for success. The region in which it was born is, as it was then, one of great need for education and job training. Many other needs and problems continue. Rogue Community College and its district, Josephine County, Oregon share some statistics which engender little pride but which make the meaning and need for a community college extremely high. We are among Oregon's lowest by per capita income; we have extremely high divorce rates; we have the highest teen pregnancy rate; we have the highest infant mortality rate. We also have or are among the highest in child abuse and substance abuse rates. We are also an area facing changes in our work force and our principal industry, particularly logging and lumbering. That industry has changed over the recent past and continues to change in response to a variety of economic, environmental and political forces which are magnified at the local level.

With the help of many local citizens, including Senator Hatfield, Rogue Community College was founded in 1970. Thanks to the existing Fort Vannoy Job Corps site, on BLM land, a college began its evolution. In the process of that evolution, 45 additional adjacent acres were purchased and the total base of approximately 85 acres came to be known as the home campus of Rogue Community College. The college, directed by a local board and utilizing funding from many sources, has since that time built eight new buildings in addition to the structures of the original Job Corps facility. Of those eight buildings, seven have been erected on BLM land. The latest was completed this past year and is a new large computer facility. Other buildings include a science facility, automotive and heavy equipment shops, welding, a modern electronics lab, general classroom space, theater space, as well as a building for gunsmithing and precision machining programs.

3345 Redwood Highway Grants Pass, Oregon 97527 (503) 479-5541

The college was notified in 1986 that we were to become the owners of the pre-existing Job Corps buildings, but not the land. Those buildings which were originally meant to be temporary had served since 1970, and by continuous use the ownership of the buildings was passed on to the college and its board from the federal government, but not the land.

We began tenuously. Were there enough people? Could the funding be gained and maintained? The history has now been written; this past year Rogue Community College served 11,900 different citizens with vocational, academic, and cultural programs. We have indeed passed a mark. In the past 18 months we have completely redone all of the pre-existing Job Corps buildings and made them into permanent long-term facilities for the college. All of those buildings, as you would expect, are on BLM land.

We are, as we were in 1970, a very needed part of this landscape. We wish to become a permanent part of that landscape for now and for the future through site ownership, which with your assistnce can now be accomplished. There are many in our community who have spoken for us, not the least of whom are local people in leadership roles with the BLM, and people with the O & C Lands Association. We have no one in county or other local government who does not support this action. Nor are we a timbered BLM site. I have attached several letters of support. Also, I have enclosed before and after photographs and an aerial photo that we wish to share with you.

So let me review very quickly. Twenty years of evolution, twenty years of development, twenty years of investment, and finally permanence. Permanence in what were temporary facilities, making very, very good and cost-efficient use of facilities originally provided from the Job Corps Fort Vannoy camp. Your help today, and finally the help of Congress, will provide the permanence that this college has hoped for over its twenty years of existence and will meet the long-term goals of a local board and local citizens who fund approximately 85% of the total costs of this college. This seems to be an opportunity for government to confirm without direct costs the vocational purposes established with a 1960s training center as it now continues as a locally funded, quality community college.

Thank you for this opportunity. I certainly would be pleased to answer questions or share other remarks as you may wish.

Sincerely,

Harvey O. Bennett, Ph.D.
President

March 6, 1990

NEIL GOLDSCHMIDT
Governor

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310-0370
TELEPHONE: 378-3111

March 2, 1990

The Honorable Mark O. Hatfield
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Hatfield:

Rogue Community College needs to secure title to the property it occupies.

Transformation of this Job Corps site into a dynamic community college is one of the nation's educational success stories. President Harvey Bennett has successfully managed an appropriation from my 1987-89 higher education construction budget into a remarkably functional and attractive educational resource.

Removal of the BLM land title obstacle will free the college to work with its voters for the long term, unencumbered by doubts concerning the status of the property.

Any help you can provide the college in its dealings with the BLM will help us secure and build on the state and local investment already made in the site.

Sincerely,

Neil Goldschmidt
Governor

NG/is

State Board Members:

Jane Reyneke, Chair
Felipe Veloz, Vice Chair
Ruth Hewett
Don Kruse
Sharon Little
G. Dale Weight
Jeana Woolley

Michael Holland
Commissioner

Deborah Lincoln
Deputy Commissioner

OREGON STATE BOARD OF EDUCATION

Office of Community College Services
700 Pringle Parkway SE, Salem, Oregon 97310-0290
(503) 378-8600 • FAX No. (503) 378-8434

February 15, 1990

The Honorable Mark O. Hatfield
United States Senate
711 Hart, Senate Office Bldg.
Washington D.C. 20510

Dear Senator Hatfield,

This letter is written in strong support of the efforts of Rogue Community College to secure title to the property it occupies. As you know, the property is currently owned by the Bureau of Land Management and that agency has been reluctant to effect a transfer of ownership.

Rogue Community College was established in 1970. The college began operations with a great deal of hope and very little money. The original facilities were of the vintage Job Corps variety...hastily constructed wood frame buildings without foundations. The original program was supported by borrowed or outdated equipment, and the faculty and administrators were sorely tested as they struggled to provide programs of quality with such limited resources.

After twenty years of operation, the college has been completely transformed, and its humble beginnings are now only an instructive memory. Within the last five years, the college has totally rebuilt its physical plant. The facilities now represent a solid training resource for the citizens of southern Oregon. The college's recent investment in instructional equipment has been as remarkable as its investment in buildings. Moreover, the college's development of instructional programs for at-risk populations, displaced workers, welfare clients, and other hard to serve students has been model for the entire state.

Rogue Community College has emerged as a critical educational resource for all of southern Oregon. It is an indispensable institution for the 200,000 citizens of Josephine and Jackson counties. The federal government's removal of the land title obstacle would send a powerful message of affirmation for the work

of this remarkable institution. Your willingness to assist the college in its dealings with the BLM is deeply appreciated.

Sincerely,

Michael Holland,
Commissioner

cc Dr. Harvey Bennett, RCC

BOB REPINE
JOSEPHINE COUNTY
DISTRICT 49

REPLY TO ADDRESS INDICATED:
☐ House of Representatives
Salem, OR 97310
☐ P.O. Box 1100
Grants Pass, OR 97526

COMMITTEES
Member:
State and Federal Affairs
Housing and Urban Development

HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310

February 27, 1990

The Honorable Mark O. Hatfield
United States Senate
711 Hart, Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Hatfield:

On behalf of the people of Josephine county I would like to thank you for your efforts in introducing a land transfer bill on behalf of Rogue Community College. You don't need me to tell you how deserved this transfer is. This facility represents a solid training resource for the citizens of southern Oregon. Rogue Community College has a commitment to quality education and the direction of their goals are clear.

Your willingness to assist the college in its dealings with the BLM is deeply appreciated. The federal government's removal of the land title obstacle would send a powerful message of affirmation for the work of this remarkable institution.

Sincerely yours,

Bob Repine
State Representative

cc: Dr. Harvey Bennett, RCC

JOSEPHINE COUNTY OREGON
COURTHOUSE GRANTS PASS, OREGON 97526
(503) 474-5221

BOARD OF COMMISSIONERS
Rebecca L. Brown
Brian E. Calvert
Bruce M. McGregor

February 26, 1990

The Honorable Mark O. Hatfield
U. S. Senate
711 Hart
Senate Office Building
Washington, DC 20510

Dear Senator Hatfield,

The Josephine County Board of Commissioners strongly supports your efforts to transfer the ownership of land where Rogue Community College is located. As you know, that site is BLM land and a former Job Corp site.

Rogue Community College is an important force in our county, both in education and economic development. The Board of Commissioners recently awarded the College with a $192,000 grant to further their remodeling efforts and help meet our economic development goals.

Rogue Community College is an important resource for Southwestern Oregon, located in an area of over 200,000 population, and serving the communities needs in a cost effective manner. We appreciate your efforts on behalf of the land transfer.

Sincerely,

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS

Bruce M. McGregor, Chairman

Rebecca L. Brown, Vice Chairperson

Brian E. Calvert, Commissioner

BCC/h

cc: Harvey O. Bennett, PhD

LENN L. HANNON
JACKSON COUNTY
DISTRICT 26

REPLY TO ADDRESS INDICATED:
☐ Senate Chamber
Salem, Oregon 97310-1347
☐ 240 Scenic Drive
Ashland, Oregon 97520

COMMITTEES
Member
Labor
Ways and Means
Sub—Education
Sub—Public Safety

Assistant Republican Leader

OREGON STATE SENATE
SALEM, OREGON
97310-1347

February 26, 1990

Mark O. Hatfield
U.S. Senator
322 Hart Senate Building
Washington, DC 20510

Dear Senator Hatfield:

I wish to add my support to the many who are urging Congress to pass special legislation allowing the transfer of ownership of forty acres of Bureau of Land Management land to Rogue Community College.

Although Rogue Community College is located in Josephine County, just west of my Senate district, I am keenly interested in the well-being of this fine college because it has a substantial and positive impact on Jackson County and southern Oregon.

When established in 1971, Rogue Community College consisted of nothing more than several buildings and sheds which had previously been used as a Job Corp Center. During the first few years it struggled merely to survive. However, in the last several years RCC has grown remarkably. Improvements have been made to the facility, the grounds and, of course, the quality of education. This young institution has a tremendous community outreach and involvement and, is now earning the respect of other long time community colleges in Oregon. The need for continued growth and progress is obvious to anyone who has an interest in higher education.

The legal stumbling block impeding the transfer of title must be corrected, especially since both parties are in total agreement. I am very hopeful that this will be accomplished through the special legislation that has been introduced in the Senate and House of Representatives.

Feel free to contact me if I can answer any questions on this matter.

Sincerely,

LENN L. HANNON
State Senator
District 26

JOSEPHINE COUNTY TITLE CO.
118 N.E. C Street, P.O. Box 71
Grants Pass, Oregon 97526
Tel (503) 476-6884 : Fax (503) 479-4437
"our product is peace of mind"

February 28, 1990

Senator Mark O. Hatfield
711 Hart
Senate Office Building
Washington, D.C. 20510

Dear Senator Hatfield:

I am serving as a member of the elected Board of Directors of Rogue Community College. I am writing this letter to thank you for your support in seeing that the Congress is presented with the opportunity to transfer the Community College Campus property from the BLM to the College.

Having been raised here when there was no community college, and having returned to run a business in the local economy, I have been able to see just how incredibly important the community college is to the quality of life for the residents of this community. I would urge all members of congress to confirm to the college the permanence that it represents as an institution in the community.

Sincerely,

JOSEPHINE COUNTY TITLE CO.

J.M. DeCourcey, Executive Vice President

Senator BUMPERS. Dr. Bennett, why is the present lease arrangement unsatisfactory?

Dr. BENNETT. Mr. Chairman, the land is the first issue with every public or private group that we work with in terms of the evolution of vocational training facilities on this campus. We have folks who are interested in developing a performing arts center in our community. We are one of those sites. The best site is on BLM land. The question is ownership again and continued investment in the college. We have some overseas people as well interested in providing that kind of location.

I think the question of land will go on and on, who owns it, if we capitalize it what happens to those facilities through time.

Senator BUMPERS. How many community colleges do you have in Oregon?

Dr. BENNETT. There are 16, sir.

Senator BUMPERS. Is yours the newest?

Dr. BENNETT. No, we are not the newest. In fact, one was formed just two years ago.

Senator BUMPERS. What is your full-time equivalence?

Dr. BENNETT. Full-time equivalence is about 2,200. We enrolled 11,900 people to arrive at that number.

Our neighboring county will vote on its community college on March 27.

Senator BUMPERS. How big is Grants Pass?

Dr. BENNETT. Grants Pass is about 17,000 in a county of about 71,000. We are the second fastest growing county in Oregon.

Senator BUMPERS. Are there a lot of national forests around there?

Dr. BENNETT. Yes, sir.

Senator BUMPERS. You set out some statistics here that I found interesting on substance abuse, teenage pregnancy, infant mortality and so on.

Is that area pervasively poverty stricken, or is that a fairly new phenomena there?

Dr. BENNETT. I think the unemployment statistics since they have been kept in Oregon would show Josephine County, which is this college's district, as either the highest over that time period or the second highest.

I think at the same time you would find us to be among the lowest of family income over that same time period.

Senator BUMPERS. That makes me very sympathetic, and it certainly rings a bell with me. We have had a situation in seven states but particularly in Arkansas, Mississippi and Louisiana where poverty has been so pervasive for over 100 years. It is just one of those things that people accepted and never tried to do anything about.

I established a community college in northeast Arkansas where the poverty rate was the highest, and it has been a Godsend to those people. It has given them a sense of pride in their community they never had before, for one thing. It has given them access to not only the teaching of humanities and things like that but some performing arts coming to town and all of that.

We have a commission ongoing right now to study ways the Federal Government can be helpful in trying to alleviate this 40 percent poverty rate in what we call the Delta, essentially from St.

Louis to New Orleans on both sides of the Mississippi River, which ought to be the pearl of the Nation.

You know, it is so difficult to get other Senators interested in a problem like that. Yet, I think there is nothing worse than allowing, whether in the inner city, Josephine County or the Delta, for us to sit and do nothing. We are not ever going to be a great Nation until all of us understand that we all have a role in helping alleviate those problems.

Dr. BENNETT. Mr. Chairman, we are in every public school after school hoping to keep people in successfully to finish their high school and then come to us. We are the only community college in Oregon that waives the first quarter of tuition in order to get people in a line to establish their eligibility for Pell and other kinds of things.

Josephine and Jackson are the two counties in Oregon with the lowest post-secondary training in an area that has to have work force development if it is going to have meaningful economic life.

Senator BUMPERS. Is timber the big industry there?

Dr. BENNETT. Timber is a large industry.

Senator BUMPERS. What is the unemployment rate in Josephine County right now?

Dr. BENNETT. It is about 7.5 percent. It has been as high as 20 in recent years.

Senator BUMPERS. Senator Hatfield, thank you for joining us.

Senator HATFIELD. Thank you, Mr. Chairman. I would like to first welcome President Bennett to the hearing, and I want to express my appreciation to the Chairman for holding the hearing.

I might say, Mr. Chairman, that the statewide unemployment is about 5.3 percent, which gives it about a national or under a national average, but the differential of which President Bennett speaks in that locale is illustrative of the kind of timber dependence that we have in that state.

Mr. Chairman, I would like to also comment about the community college role in the State of Oregon. People often ask me, as I am sure they ask you as a former governor of Arkansas, what you consider to be one of your greatest, if not your best, accomplishments as governor of the state. I always respond without hesitation the launching of the community college program in my state.

Senator BUMPERS. I did the same thing, Senator, and I share your sentiment totally.

Senator HATFIELD. Of the 16, I was privileged to sign the charter for 12 of them during the two terms that I served as governor. I will not go into a long history of that except to say that we were determined to make it a terminal program and a transfer program with special emphasis on vocational technical education, which was really a great need not only to provide jobs for people but to meet the job requirements in our economy.

Without hesitation, I would say President Bennett is certainly one of the persons that we like to use as an example of the kind of quality of our community college program in that state because of the quality of the leadership.

Mr. Chairman, I cannot add a great deal. President Bennett has already indicated to you the history of this 40 acres. It was surplused by the BLM and the GSA. It was transferred to the HEW

and then in turn leased to the college. With the funding programs that are available for community colleges, namely bonding of the local community vote by financial institutions, loans, et cetera, the ownership question always plays a vital part in being able to either get the vote of the people for bonding under the restrictions of the state for bonding purposes or for getting financial institutions to give loans.

I think two things should be pointed out for emphasis. One is there is a reversion clause in the bill that should this be used for any other purpose or cease to be used for educational purposes, that 40 acres reverts to the Federal Government.

Second, we reserve all mineral rights for the Federal Government on those 40 acres.

I think those are significant protections of what we like to think of as our responsibility to protect public ownership.

In the meantime, it seems to me that the college has already demonstrated the higher use of this land for educational purposes and the continued commitment for that purpose. I would like to urge the committee to act favorably on this bill. I think there is no controversy about it at the local level. We have a letter from the governor and other officials. There is no known opposition. There is a great growing support of the community in Josephine County for the community college and for their needs.

The wonderful thing about it, Mr. Chairman, and I am sure the same thing happened in Arkansas, is that we have found the community college has in effect become the catalyst for a community identification, a community sense that it is our college, we vote the budget every year, we vote the bonds for the new buildings, we have to finance it at the local level with some State aid. If there is going to be a performing arts center, why not put it on the campus where it can serve the students and the community, because the community sees the college as an important resource of the total community life.

I think where that bonding is occurring, we ought to encourage it is important for the college, but it is also important for the community.

Senator BUMPERS. Thank you, Senator Hatfield.

Dr. Bennett, thank you very much for coming out to be with us. I personally will treat this bill as non-controversial, and hopefully we will get it on the markup session at the next business meeting and get this out for you at the earliest possible time.

Dr. BENNETT. I appreciate the opportunity. Thank you.

Senator BUMPERS. Thank you.

We will stand adjourned.

[Whereupon, at 10:58 a.m., the hearing was adjourned.]

[Subsequent to the hearing the subcommittee received the following:]

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LLOYD BENTON MILLER*
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DOUGLAS B. L. ENDRESON**
MARY V. BARNEY
ANNE D. NOTO
JILL A. DE LA HUNT*

*ALASKA AND DISTRICT OF COLUMBIA BARS
**WISCONSIN BAR
ALL OTHERS DISTRICT OF COLUMBIA BAR

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WASHINGTON, D.C. OFFICE
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WASHINGTON, D.C. 20005
(202) 682-0240
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March 13, 1990

VIA DHL

The Honorable Dale L. Bumpers
Chairman, Committee on Energy & Natural Resources
Subcommittee on Public Lands,
National Parks & Forests
United States Senate
308 SDOB
Washington, D.C. 20510-5158

Attn: David A. Brooks

Dear Senator Bumpers:

I write on behalf of Cook Inlet Region, Inc. (CIRI), an Alaska Native regional corporation established pursuant to the Alaska Native Claims Settlement Act of 1971, to express CIRI's position on S. 666, a bill to enroll twenty individuals under the 1971 Act.

S. 666 would authorize and direct the Secretary of the Interior to enroll several named individuals as "Natives" under the 1971 Act, and would state that each individual is thereby entitled to receive one hundred shares of stock in CIRI. (Although the bill as introduced would also provide that each individual is entitled to receive one hundred shares of stock in Kenai Natives Association, Inc., we have been advised by counsel for the affected individuals that, due to objections raised by the Kenai Native Association, Inc., this provision will be stricken from the bill. CIRI concurs in that action.) The net effect of the bill will be to render moot litigation currently pending in the United States District Court for the District of Alaska, Flood v. Bureau of Indian Affairs, Case No. A-87-412 Civil.

S. 666 and the above referenced litigation represent the latest in a longstanding controversy over the eligibility of the

affected individuals to be enrolled pursuant to the Act. Cook Inlet Region, Inc. has no objection to the enactment of S. 666 provided that the bill is amended to expressly state that the newly enrolled shareholders will not be entitled to any retroactive benefits from CIRI of any nature whatsoever. CIRI understands that the following language has been proposed:

> No individual enrolled pursuant to this Act shall be entitled to share in any dividends or Alaska Native Claims Settlement Act distributions made by the United States or Cook Inlet Region, Inc. prior to the individual's enrollment. Enrollment of these individuals shall not alter the entitlement to or distribution of land to Cook Inlet Region, Inc. under the terms of the Alaska Native Claims Settlement Act.

Provided such an amendment is made to the bill, Cook Inlet Region, Inc. has no objection to the enactment of S. 666. Absent such an amendment (or a similar amendment), however, Cook Inlet Region, Inc. would have to oppose the bill.

Since Cook Inlet Region, Inc. was unable to appear at the Subcommittee's recent hearing on S. 666, we respectfully request that this letter be made a part of the record of that hearing and reprinted in the Committee report which accompanies S. 666. Of course, if the Committee has any questions regarding Cook Inlet Region, Inc.'s position in this matter, please do not hesitate to contact me.

Sincerely,

Lloyd Benton Miller

LBM/mmm
cc: Honorable Frank H. Murkowski

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○